

***“Criminal Tides:***  
**A Comparative Study of Contemporary Piracy in**  
**Somalia and Southeast Asia”**

by  
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## **DECLARATION**

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## ABSTRACT

Maritime piracy is not a new phenomenon. However, the nature, severity and impacts of contemporary piracy have evolved to become a highly-organised, professional and international scourge. This comparative and explanatory study set out to explore questions regarding the *how* and *why* of maritime piracy trends in Somali and Southeast Asian waters. This study sought to (a) conceptualise an appropriate definition of maritime piracy; (b) determine the causes and motivations for piracy in these regions; (c) offer insights as to the most effective ways of combating piracy; (d) investigate the various impacts and effects of piracy; and (e) discussing the significance of international responses to this phenomenon. In pursuing the above-mentioned goals this study offered a comparison of correlating trends and differences between these two regions.

This study attributed the underlying motivations to two chief factors: namely, state failure and instability, as well as socio-economic factors. These two factors, along with several additional contributing factors, effectively established piracy's main causes. The general findings of this study concluded that contemporary piracy cannot be understood without a thorough understanding of a combination of various factors. It was also argued that although the alleged link between piracy and terrorism remains speculative, piracy could have the ability to facilitate international terrorism.

The nature of contemporary piracy in Somalia and Southeast Asia was examined, as well as a discussion of the most significant pirate attacks in these regions. This study established that the nature of Somali and Southeast Asian piracy display various similarities, as well as differences. Together with explanations accounting for decreases and increases in pirate attacks, it emerged that an increase in violence and sophistication of piracy is apparent.

By highlighting how contemporary piracy has become both a regional and international security threat, this study brought forward arguments that showed how piracy negatively affects regional stability, as well as exacerbating poverty. Furthermore, this study found that the impacts of piracy are far-reaching and therefore require international and regional collaborative responses. Regarding solutions to piracy, emphasis was placed on including domestic, regional and international approaches. Moreover, this study argued that overlooking the internal problems on-land only serve to worsen the piracy situation in Somalia and Southeast Asia.

## OPSOMMING

Seerowery is nie 'n nuwe fenomeen nie. Die aard, erns en impak van hedendaagse seerowery het wel in 'n hoogs-georganiseerde, professionele en internasionale plaag ontwikkel. Hierdie vergelykende en beskrywende studie poog om die vrae rondom *hoe* en *hoekom* seerowery in die Somaliese en Suidoos-Asiese waters plaasvind. Die doel van hierdie studie was, om: (a) seerowery te konseptualiseer, (b) die oorsake en motivering(s) vir seerowery in spesifieke streke te bestudeer; en (c) die internasionale reaksie tot hierdie verskynsel te bespreek. Met die doel om die bogenoemde vrae te beantwoord verskaf hierdie studie 'n vergelyking van ooreenkomstige tendense en verskille tussen die twee gebiede.

Hierdie studie skryf die onderliggende motiverings toe aan twee hoof faktore: naamlik, staatsmislukking en –onstabiliteit, en tweedens sosio-ekonomiese faktore. Daar is ook 'n paar aanvullende bydraende faktore wat kortliks bespreek word. Hierdie studie bevind dat hedendaagse seerowery nie volledig verstaan kan word sonder 'n begrip van verskeie faktore, wat in hierdie studie beskryf word, nie. Hierdie studie bevind ook dat alhoewel die beweerde verband tussen seerowery en terrorisme onseker is, dat seerowery wel die potensiaal besit om internasionale terrorisme te fasiliteer.

Die aard van hedendaagse seerowery in Somalië en Suidoos-Asië is ondersoek, tesame met 'n bespreking van die mees beduidende seerower aanvalle in die gebiede. Hierdie studie wys dat die aard van Somaliese en Suidoos-Asiese seerowery vele ooreenkomste sowel as verskille bevat. Tesame met verduidelikings oor die afname en toename in seerower aanvalle verskaf hierdie studie ook 'n beskrywing van die toename in die gesofistikeerdheid van die hedendaagse seerowers. Die studie het ook klem op die feit gelê dat hedendaagse seerowery beide 'n streeks- asook 'n internasionale sekuriteits gevaar is. Dus het seerowery 'n breë en vërreikende impak, en vereis internasionale en streeklikse samewerking om teenkamping te loods. Daar word ook bevind dat 'n versuiming om na interne probleme in Somalië en Suidoos-Asië kan dien as 'n versterking tot die seerowery verskynsel.

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*“To err is human; to arr is pirate.”*

Marina Reyskens

October 2011

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**Figure 1: Map of the Horn of Africa**  
**Source: CIA World Factbook, 2011**





**Figure 2: Map of Southeast Asia**  
**Source: CIA World Factbook, 2011**



## **LIST OF ABBREVIATIONS & ACRONYMS**

AFRICOM	United States Africa Command
AIS	Automatic Identification System
ASEAN	Association of Southeast Asian Nations
AU	African Union
EEZ	Exclusive Economic Zone
EUNAVFOR	European Union Naval Task Force
GPS	Global Positioning System
IMB	International Maritime Bureau
IMO	International Maritime Organisation
MOP	Maritime Operation Planning Team
MPSA	United States Maritime Security Patrol Area
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
RECAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
SPAS	Sea Power for Africa Symposia
UNCLOS	United Nations Convention on the Law of the Sea
US	United States

## CHAPTER 1

### Introduction

#### 1.1. OVERVIEW

The focus of this particular thesis will take the form of a comparative study of contemporary piracy trends in Somalia and Southeast Asia – more specifically, the regions of the Horn of Africa and Gulf of Aden, as well as the Strait of Malacca.<sup>1</sup> The issue of contemporary piracy has a wide array of regional and international security impacts. The increase in occurrences and severity of piracy in these specific regions has become a pressing concern for the maritime industry especially, and this study will attempt to establish an enhanced understanding of the underlying causes of piracy. The international community's concerns regarding security in these regions is also a paramount issue and, by using a comparative approach this thesis will analyse the cases of piracy in the regions of Somalia and Southeast Asia. Comparative trends between these regions will be investigated in order to give insight into the scourge which manifests itself.

#### 1.2. PURPOSE AND SIGNIFICANCE

The purpose of this study is to investigate questions pertaining to the *how* and *why* of maritime piracy trends in the regions of Somalia and Southeast Asia. It is hoped that a significant insight will be offered into the field of international conflict and security.

Therefore, the purpose of this study is:

- a) to compare, explain and determine trends which characterise contemporary piracy, with special reference to Somalia and Southeast Asia
- b) to conceptualise an appropriate definition of contemporary maritime piracy
- c) to determine the motives and underlying causes of piracy in these regions, and, by doing so, to investigate linked trends which occur in these regions

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<sup>1</sup> Throughout this study, two main regions will be discussed as case studies and referred to in general as “Somalia” and “Southeast Asia.” For the purposes of this study, the former shall refer to and include piracy in the waters of Somalia, Saudi Arabia, Yemen and surrounding areas in the greater Gulf of Aden region. The latter shall refer to and include the Strait of Malacca, as well as the waters in the greater region of Indonesia, Malaysia, Singapore and Thailand.

- d) to determine the most effective ways of combating piracy – solutions which are region-specific
- e) assessing the respective impacts and effects of piracy in Somalia and Southeast Asia
- f) highlighting the role and approach of the international community and;
- g) finally, to compare correlating and/or differing trends in piracy between these two regions.

It must be noted that this study intentionally does not place focus on the alleged links between maritime piracy and terrorism for two reasons. Firstly, this link has been perceived as a contentious one, wrought with allegations and speculations from various sources in the literature review. Secondly, it is necessary to stress that the main aims and objectives of this study are instead to investigate the *how* and *why* of maritime piracy in Somalia and Southeast Asia. Terrorism is not a direct cause of piracy and could perhaps be a consequence of piracy. In other words, the focus on terrorism instead falls outside the scope of this particular study. The author is of the opinion that to analyse these speculations in a suitable manner would require a separate and dedicated study on this specific issue. It is for this reason that recommendations for future research should perhaps seek to investigate this link in a more thorough manner.

This study will however, briefly touch on the discussions surrounding terrorism and piracy throughout the study, for the purpose of clarity.

### **1.3. FORMULATION OF STUDY**

This study will begin by defining and conceptualising a definition of maritime piracy. This particular definition will be drawn from the various literature which will be consulted throughout the paper and will seek to establish the most effective definition of maritime piracy.

The next section will sketch a background to contemporary piracy in Somalia and Southeast Asia. It will take the form of a comparative description of these regions, as well as placing piracy attacks into context. The nature and characteristics of modern-day piracy in these waters will be outlined and compared.

Piracy cannot be understood without discussing its underlying causes and motivations. It is therefore that the following section will compare and analyse the various factors of piracy in Somalia and Southeast Asia. Similarities and differences will be compared, as well as trends which emerge.

It goes without saying that the impacts of piracy are far-reaching and therefore need to be given attention. Likewise, for the purposes of enhancing one's understanding of piracy at sea it suffices to compare its impacts on a broad comparative scale. These will be discussed by comparing their social, economic and political effects – both regionally and internationally. The significance of international organisations and institutions will also be compared. Additionally, the role of regional countries' approaches, as well as institutions such as the United Nations (UN), International Maritime Bureau (IMB), as well as the International Maritime Organisation (IMO), will be discussed. Specifically, this study will investigate regional approaches to piracy by countries in the Horn of Africa and Southeast Asia. Furthermore, by framing piracy as a criminal offence given by the United Nations, and others, our understanding will be further enhanced.

Drawing on the conceptualisation, we will briefly take a look at the contentious link between piracy and terrorism. It is hoped that by briefly discussing this alleged link, more insight will be offered about the nature of piracy. Ultimately, this will further point us in a more appropriate direction of the most effective measures against piracy. In other words, once we know more about the nature of piracy – as well as if terrorism is indeed linked – more solid conclusions will be available as to the approaches in managing piracy.

Drawing on the previous section, various measures to combat piracy will be investigated. International Maritime Law, as well as international frameworks, agreements and conventions will be examined and evaluated with regards to their effectiveness.

Finally, our analysis will end by providing a summary of the various trends in piracy between Somalia and Southeast Asia. It is hoped that this thesis will provide a greater insight into the issue of modern-day piracy in these regions.

#### **1.4. LITERATURE REVIEW**

In order to have an enhanced understanding on the findings of research relating to maritime piracy in the contemporary era it is necessary to consult various sources. Regarding content of the sources, one sees how the literature examines various topics such as causes and underlying factors of piracy, the significance of international maritime law, analyses of recent pirate attacks, the impacts of piracy, as well as proposed solutions to combating piracy on the seas. However, it must be noted



that there is a gap in the literature concerning Southeast Asian piracy, as it does not receive adequate attention relating to its causes and motivations, as the Somali case does. Similarly, first-hand academic accounts of Southeast Asian piracy are scarce and limited in their scope. Therefore, it is hoped that this imbalance will be addressed with the arguments in our study.

In brief, the sources which will be consulted in this thesis display a predominant focus on the issue of increasing violent piracy acts in international waters, especially in recent times. Much of the literature seeks to highlight the root causes, explanations, history and motivations of modern maritime piracy.

Concerning previous research dealing with the topic of modern maritime piracy and terrorism, this thesis will consult various publications which will be expanded in the literary review. Previous research has mainly focused on the increase and scourge in the threat of piracy – specifically in the Horn of Africa region, as well as the increase in violence and violent acts linked to piracy. In addition, previous research has sought to investigate and centre around the motivations and root causes of piracy. A large portion of previous research has sought to investigate the link between terrorism and maritime piracy, and has consequently made for some contentious differing viewpoints in academia regarding the definition of piracy. The issue surrounding Somalia's lack of governance has also been linked to the issue of piracy, which has in turn given rise to research pertaining to Al-Qaeda terrorist links with piracy in Somalia. Moreover, many sources offer predictions for future trends in contemporary piracy, in addition to seeking sustainable approaches for solutions in combating piracy on the high seas. Such literature that will be relevant to consult is Rotberg's "*Combating Maritime Piracy: a Policy Brief with Recommendations for Action*" (2010).

However, it must again be noted that the chief focus of this study will not be terrorism and piracy but will rather be briefly touched upon, owing to largely insufficient evidence for links between piracy and terrorism. Nevertheless, the work of the Rand Corporation "*Increase in Piracy and Terrorism at Sea: Little Evidence Supports Fear that the two Crimes are Merging*" (2008) will briefly be consulted, as it seeks to dispel claims that maritime piracy is linked with terrorism.

#### **1.4.1. Definitions**

Owing to the fact that definitions of what constitutes maritime piracy differ immensely, the section discussing definitions consults various authors, with a critical viewpoint. Some of the major works



consulted here are Beckman “*Combating Piracy and Armed Robbery Against Ships in Southeast Asia*” (2002), Gibson “*Maritime Security and International Law in Africa*” (2009), Murphy “*Contemporary Piracy*” (2007), Neethling “*Piracy Around Africa’s West and East Coast*” (2010), Halberstam “*Terrorism on the High Seas: the Achille Lauro, Piracy and the IMO Convention on Maritime Safety*” (1988) and Vreÿ “*Bad Order at Sea: from the Gulf of Aden to the Gulf of Guinea*” (2009). With a critical discussion, this study incorporates these definitions into an original conceptualisation of piracy.

#### **1.4.2. Theoretical and Conceptual Aspects**

Much of the theoretical and conceptual work of this study is based on Tsvetkova’s “*Securitizing Piracy off the Coast of Somalia*” (2009). It highlights how piracy became an international security threat – particularly concerning international oil trade – as well as the consequences thereof.

#### **1.4.3. Background and Nature**

Contemporary piracy cannot be understood without a relevant background with which to contextualise the nature of piracy attacks. Thus, one consults various recent news articles and reports, in combination with scholarly literature depicting timelines and characteristics of piracy.

Although not regarded as academic literature, we will consult the work of Ross Kemp, whose book entitled “*Pirates*” (2009) gives an in-depth account of modern day piracy. His first-hand experiences in Somalia and Southeast Asia aid our insights into sketching an accurate account of contemporary piracy. As with the Southeast Asian case study, academic accounts of first-hand experiences with pirates are scarce and limited. Thus, Kemp’s work will be referred to. It is hoped that this study could perhaps provide some form of academic account of piracy.

The International Crisis Group’s website gives continuously updated daily accounts of piracy attacks, dangerous or suspicious vessels at sea, as well as measures for ships to reduce the likelihood of being attacked at sea in dangerous waters.

Anderson’s article, entitled, “*Piracy and World History: An Economic Perspective on Maritime Predation*” (1995), presents an overview of piracy, coupled with an economic and legal analysis of the nature and significance of piracy. The article begins by sketching an historical overview, and

then follows with a definition of contemporary piracy. In brief, this article focuses on the economic impacts and consequences of piracy.

Cafruny's "*Class, State, and World Systems: The Transformation of International Maritime Relations*" (1995) offers a theoretical analysis of international maritime relations. The article begins by offering various theoretical approaches and assumptions which are involved with "hegemonic power and the evolution of international shipping." This is particularly relevant in our discussion of the significance and impact of piracy on international shipping and trade.

Fouche, in "*Somali Pirates Take to the High Seas: Expediency or Long-Term Pirate Strategy?*" (2009), offers a timeline and analysis of contemporary piracy attacks, as well as evaluating the specific nature of the incidents. In addition, Fouche sketches a background to piracy in light of the changing nature of the recent attacks. Responsibilities of the international community are investigated, and Fouche's article concludes with a suggestion that maritime security laws need to be re-evaluated to ensure better co-operation in dealing with the piracy problem.

Vreÿ's article "*Bad Order at Sea: From the Gulf of Aden to the Gulf of Guinea*" (2009), explains the nature of African maritime piracy along its coast whilst linking the phenomenon with "good order at sea." The weakening and effective corrosion of security at sea – as well as on land for that matter - in this region is studied. This is followed by an analysis of the specific regional piracy threats in the Gulf of Aden. Alternatives for regional security promotion are brought forward and the article closes with a comparison between East and West African piracy.

Kisiangani's "*Somalia Pirates: Villains or Victims?*" (2010) contextualises Somali piracy, as well as providing insights into its consequences. These broadly include a destabilising effect on trade, security and humanitarian aid. The article points towards justifiable reasons implemented by the international community, as well as pointing out the reasons for the rise of this particular piracy. The main argument in Kisiangani's article highlights the importance of an appropriate contextual framework which includes a "regional Somali solution," as well as a co-ordinated international one. The article goes on to outline various military responses, the costs of piracy, as well as various laws and regulations which deal with piracy.

Beckman, "*Combating Piracy and Armed Robbery Against Ships in Southeast Asia: The Way Forward*" (2002), examines the incidents of recent piracy attacks in Southeast Asia and places

particular emphasis on highlighting the problems associated with international law of the sea. Thus, sovereignty comes into play and Beckman's article analyses piracy incidents, mainly focuses on various solutions brought forward by the international community to combat piracy at sea. Southeast Asian piracy is analysed and Beckman offers his own proposals concerning solutions against piracy.

#### **1.4.4. Causes and Motivations**

To explain the causes and motivations for Somali and Southeast Asian piracy, the framework of Murphy in *"Contemporary Piracy"* (2007) and Chalk in *"The Maritime Dimension of International Security: Terrorism, Piracy, and Challenges for the United States"* (2008) will be extensively consulted, in addition to several other authors, and will be used in the discussion of Somali and Southeast Asian piracy in their individual chapters.

Among other notable literature are the works of Elleman *et al* *"Piracy and Maritime Crime: Historical and Modern Case Studies"* (2010) and Cawthorne *"Pirates of the 21<sup>st</sup> Century: How Modern-Day Buccaneers are Terrorising the World's Oceans"* (2010), who give in-depth insight into the evolution of maritime piracy, as well as give contemporary views on the situation in Southeast Asia specifically. Neethling's *"Piracy Around Africa's West and East Coasts: A Comparative Political Perspective"* (2010) and Onuoha's *"Sea Piracy and Maritime Security in the Horn of Africa: The Somali Coast and Gulf of Aden in Perspective"* (2009) are also invaluable resources when referring to underlying causes and motivations for piracy in both regions.

The academic study of piracy has been studied in detail by Peter Chalk, whose expertise is widely recognised. Chalk and Smallman's article *"Piracy Still Threatens the Freedom of the Seas"* (2009), investigates and addresses the root causes of maritime piracy in the contemporary world. By placing focus on a range of socio-economic factors they effectively discuss the underlying nature and characteristics of piracy in a thorough manner.

Chalk's *"Sunken Treasures: The Economic Impetus behind Modern Piracy"* (2009), outlines the motivations for piracy and mentions the economic impact of piracy. Two factors which he focuses on when explaining these motivations are: the "enormous volume of commercial sea freight," as well as the "necessity of ships to pass through congested maritime chokepoints" – such as in the Gulf of Aden and the Strait of Malacca. Impacts of maritime piracy are explored, along with the various efforts by the international community in combating this violence.

To ensure an enhanced understanding of the underlying motives for piracy, it is necessary to briefly draw one's attention to the causes of instability – which ultimately fuels piracy – in Somalia. A similar approach will be used when referring to Southeast Asian piracy. Although at first glance, the conflict situation on land seems rather irrelevant in our discussion, its inclusion is purposeful as it intends to present a more thorough explanation of the causes and underlying factors which contribute to piracy at sea.

The International Crisis Group's article, entitled "*Somalia: the Trouble with Puntland*" (2009), gives an in-depth account of the root causes of the vulnerability of the Puntland region of Somalia – specifically investigating the reasons why this region has become such a particular hotspot for sea piracy. Poor regional governance and clan loyalties are highlighted and linked to the failure of past solutions to address this threat. After addressing a detailed account of the problem of poverty in the region - and hence its establishment as a contributing factor – the International Crisis Group proposes step-by-step solutions to dealing more effectively with region of Puntland and thus in turn, the threat of piracy.

Elmi and Barise's article "*The Somali Conflict: Root Causes, Obstacles, and Peacebuilding Strategies*" (2006), takes a closer look at the various root causes of the ongoing conflict in Somalia. Their argument includes how competition for resources, clan hostility and the influence of warlords contributes to a shaky environment for any type of security to emerge. Peace-keeping strategies are also brought forward at the end of their article.

Adam's article "*Somalia: Militarism, Warlordism or Democracy*" (1992), gives an insight into the significance of Somali's clan alignments, as well as the impact of this specific phenomenon with regards to the failed government in Somalia. Importantly, Adam highlights the negative contribution this has made on regional security in the Horn of Africa.

Tharoor's article "*How Somalia's Fishermen Became Pirates*" (2009), argues that modern day Somali pirates are "a product of the rest of the world's neglect." Tharoor gives a brief historical discussion of the consequences of the Somali failed state and takes the reader through the most significant events which have taken place in Somalia in the contemporary age.

Swart's article "*Pirates of Africa's Somali Coast: On Terrorism's Brink?*" (2009), evaluates and discusses the threat of maritime terrorism in Africa, particularly focusing on the Somali coastal

threat. Permeability of African state borders is featured as a factor determining the underlying causes of this ideal environment for piracy, as well as terrorism on land. Unguarded coastlines of Africa and failed states are also discussed as factors which perpetuate the scourge of piracy at sea, along with the issue of piracy being linked to and defined as terrorism. Swart further discusses recent events and contextualises these in order to give an enhanced understanding of the gravity and seriousness of the threat of maritime piracy.

Chalk's review "*Africa Suffers Wave of Maritime Violence*" (2001) outlines various factors which are responsible for the attacks off the Somali and Djibouti coast. These factors include the "near total absence of coastal surveillance," as well as the dire lack of governance in these states. Regions of piracy are ranked in terms of highest pirate activity and most dangerous waters. Chalk goes on to state various means which he feels the international community can implement to ensure a successful approach in addressing piracy. These measures include constant surveillance and policing of piracy-prone waters, as well as a demarcated "safe" radius for ships to sail in. Additionally, Chalk calls for increased pressure by the international community on these states in piracy regions to ensure more security in both their waters and their ports.

Ahmed and Green's article "*The Heritage of War and State Collapse in Somalia and Somaliland: Local-Level Effects, External Interventions and Reconstruction*" (1999), takes an in-depth look at the nature of Somali governance, by giving both an historical and contemporary insight. The impacts of the failed state of Somalia are briefly assessed.

Charney's "*Central East Asian Maritime Boundaries and the Law of the Sea*" (1995) evaluates and describes reasons why the Southeast Asian region is considered as having one of the most contentious maritime boundaries. Thus, the article focuses on issues concerning these boundaries in this area, as well as explaining reasons.

#### **1.4.5. Impacts and Effects**

It comes as no surprise that piracy has an array of severe effects and its impact is both far-reaching and serious in nature. For this purpose it is necessary to include literature which outlines the various impacts of piracy – be it economic, political or other impacts.

Ibrahim, “*To Patrol is to Control: Ensuring Situational Awareness in Africa's Maritime Exclusive Economic Zones*” (2009), examines the economic challenges Africa is faced with by the threat of maritime piracy. Inadequacies, attempts at sustainable solutions and the manifestation of various systems to combat piracy are examined in order to create an awareness of the problem of piracy.

Nincic’s article “*Maritime Piracy in Africa: The Humanitarian Dimension*” (2009), begins by explaining the costs and impacts of maritime piracy in Africa. Amongst others, the domestic impacts – on oil production and fishing industries, for example – are discussed, as well as the regional impacts. The influence of relief aid in Somalia and the Horn of Africa is explored and framed in a context of contemporary piracy attacks on humanitarian relief ships.

Coffen-Smout’s article “*Pirates, warlords and rogue fishing vessels in Somalia’s unruly Seas*” (2008), investigates the impact of maritime piracy on Somalia’s fishing industry and includes accounts of pirate attacks, as well as proposed approaches in regional maritime governance solutions.

The International Crisis Group’s article, “*China’s Myanmar Dilemma*” (2009), outlines the problems posed by piracy in the Strait of Malacca in Southeast Asia, with specific focus on China’s policies. Initiatives – both international and regional – are looked at and discussed for their effectiveness in addressing the piracy issue.

#### **1.4.6. International Responses and Trends**

When discussing the role of international organisations and the responses against piracy by the international community, this study will discuss works by Chalk “*The Maritime Dimension of International Security: Terrorism, Piracy, and Challenges for the United States*” (2008), Bradford “*Shifting the Tides against Piracy in Southeast Asian Waters*” (2008), Kisiangani “*Somali Pirates: Villains or Victims?*” (2010) and Murphy “*Contemporary Piracy*” (2007). Whilst not limited to this literature, these authors are most frequently referred to give a thorough understanding of collective approaches. Possible solutions and approaches brought forward by various authors are critically analysed, along with preventative measures – which are discussed at length by Chalk in “*The Maritime Dimension of International Security: Terrorism, Piracy, and Challenges for the United States*” (2008).

Studying affairs in international waters presents various challenges – of which most centre on the topic of international law of the seas. To understand the legalities and practicalities of this, it is necessary to consult the literature of Halberstam (1988), Gibson (2009) and Wambua (2009). Of course, research is not limited to these authors alone, as one must consult various other authors who touch on the subject of international law of the sea.

International Maritime Law constitutes the framework in which Halberstam, *“Terrorism on the High Seas: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety”* (1988), focuses on creating both a background and a concise understanding of the laws regarding maritime piracy and terrorism. Terrorist acts on the high seas are thus explained within a framework relevant in the scholarly world.

Maritime security is discussed within a framework of international law in Gibson’s article *“Maritime Security and International Law in Africa”* (2009), and its strengths and weaknesses are evaluated.

Regarding the theoretical aspect of maritime piracy, one must consult the United Nations Convention on the Law of the Sea (UNCLOS) of 1994 to establish the exact conditions in which we find ourselves in. Similarly, we are also prompted to take a look at the United Nations Legal Framework for the Repression of Piracy.

It is also necessary to consult various websites of organisations which provide up-to-date information regarding pirate attacks, as well as information on the various joint operations against piracy. Such an organisation, the Maritime Security Centre provides various guidelines for yachting in dangerous waters. The International Maritime Organisation will also be reviewed to obtain various updates. Concerning Asia specifically, one can consult the website of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (RECAAP) – which is an agreement to enhance the security of regional waters in Southeast Asia.

Additional literature on the topic of maritime law and security is to be found in the works of McNicholas’ *“Maritime Security: An Introduction”* (2008), and Sloggett’s *“The Anarchic Sea: Maritime Security in the 21<sup>st</sup> Century”* (2010).



Stevenson's article "*Battling Modern-day Piracy off the Coast of Somalia: The European Union's Operation Atlanta*" (2009), examines the challenges piracy poses to modern sea commerce and humanitarian aid travelling via shipping routes. Various policies, measures and legislations are examined, in addition to being evaluated for their relevance and worth.

Wambua's article "*Enhancing Regional Maritime Cooperation in Africa: The Planned End State*" (2009), is an evaluation of African maritime co-operation and explores both past and present agreements between regional institutions. An analysis of the efficacy and value of existing legislation and institutions follows and Wambua goes on to study "new avenues" that can be utilised to enhance co-operation for African maritime states.

Onuoha's "*Sea Piracy and Maritime Security in the Horn of Africa: The Somali Coast and Gulf of Aden in Perspective*" (2009), examines the contributing factors in the phenomenon of modern day maritime piracy and investigates the serious impacts for the Gulf of Aden and Somalia. Various international state- and non-state responses are evaluated and assessed in terms of their impact on this region's security. Onuoha also includes a brief proposal surrounding measures to be implemented to address the piracy problem.

The strategic importance of the Indian Ocean is discussed in Van Rooyen's "*Africa and the Geopolitics of the Indian Ocean*" (2011). Specifically, competitive maritime security is highlighted, with specific reference to the presence of international navies in the region. Co-operation amongst maritime nations is also discussed, as well as the role of various nations in combating piracy. Here, Van Rooyen (2010) points towards the maritime strategy of the African Union. The article concludes by offering recommendations.

It goes without saying that the international community – specifically the international maritime trade industry - feels threatened by the scourge of piracy in various regions of the world. Various responses have therefore emerged in the hope of combating piracy at sea. To understand these approaches one must become familiar with the various solutions that have been brought forward.

Chalk *et al's* conference paper "*Countering Piracy in the Modern Era*" (2009), discusses, amongst others, the most valuable manner in which to counter the scourge of maritime piracy. Chalk includes a summary of the underlying causes of maritime piracy, as well as briefly explaining the



legalities of international sea law. Moreover, they address the economic impacts of piracy and offer practical anti-piracy solutions.

Chalk, in *“Maritime Piracy: Reasons, Dangers and Solutions”* (2009), contextualises the factors, dangers and impact of piracy, as well as evaluating the makeup of various international responses to piracy and maritime terrorism. In addition, the emergence of modern day piracy is also looked at in this paper. Chalk highlights and emphasises that piracy is an “economically driven phenomenon.”

Chalk’s article *“Piracy and Terrorism at Sea: A Rising Challenge for U.S. Security”* (2008), discusses the problems with current anti-piracy approaches and gives some recommendations for improvement.

Wilson’s article *“Effectively Confronting a Regional Threat: Somali Piracy”* (2009), is a step-by-step description on the lessons the international community must accept and act on in order to combat maritime piracy in the region of Somalia. Wilson begins by stating how local threats develop into international threats. He goes on to describe exactly how inter-state co-operation on an international level can prove to be effective in combating piracy. In addition to describing relevant international institutions, Wilson explains how the rule of law in maritime crime must be upheld. Wilson’s article concludes with a rather pessimistic viewpoint that piracy will never be fully eradicated unless certain conditions are addressed.

Rotberg’s article, *“Combating Maritime Piracy: a Policy Brief with Recommendations for Action”* (2010), gives a concise report on the nature of Somali piracy, along with concrete solutions which can be implemented. Amongst others, solutions include focusing indigenous Somali approaches, as well as strengthening the legal responses.

Mo’s article *“Options to Combat Maritime Piracy in Southeast Asia”* (2002), takes a look at the specific manner in which maritime piracy can be addressed – with special reference to the case of Southeast Asia. Mo’s argument outlines how inter-governmental co-operation in Southeast Asia has to be seen as the only viable manner in which maritime piracy can be tackled. Furthermore, Mo brings forward various political, economic and historic reasons which suggest the challenge this brings. Mo’s argument emphasises that a unilateral agreement “by one or a few governments...may be convenient” (2002) but warns of the increased difficulties that will arise with this approach.

Neethling's article "*Piracy around Africa's West and East Coasts: A Comparative Political Perspective*" (2010), explores the differences and similarities between piracy on Africa's western and eastern region by effectively describing the phenomenon of maritime piracy against a background of the various characteristics of African maritime piracy. Its particular developments and interpretations are examined in combination with an explanation for the insecurity on Africa's east and west coasts. The explanations for and origins of the security challenges of piracy are also investigated. Neethling's article concludes by framing governance failures as the most significant agent which promulgates piracy at sea. Somalia is seen as an actor in the piracy issue and is evaluated in terms of its actions – or lack thereof - in securing its waters.

### 1.5. **RESEARCH METHODS**

Regarding the research methodology in this study, we have chosen a comparative approach which is most suitable in dealing with our research questions investigating the *how* and *why* of contemporary piracy in Somalia and Southeast Asia. This study is both explanatory and descriptive and therefore takes the form of a qualitative study, as it seeks to offer an investigation into specific cases and processes in a particular context in order to give and establish meaning. Owing to its nature, our approach will not include any sort of hypothesis, nor any falsifiable theory.

Maritime piracy as a phenomenon cannot be described without explaining it and therefore the descriptive element (in order to successfully render understandable and to make clear) describes the *how* and the explanatory element (which accounts for why piracy occurs) explains the *why* in the research question. Therefore, whilst this study is more of a descriptive than explanatory analysis it should be made clear that – bearing the purpose in mind – this study illustrates *how* and *why* various elements and factors contribute to piracy.

The methodology will not stem from any particular school of thought or ideological reasoning, but will instead attempt to ascertain various ideas, motives, themes and observations throughout its course.

This study's time dimension will be over recent time and will centre its focus on acts of maritime piracy from the mid-1990s to the present day. Using characteristics of cross-sectional and historical time dimensions, we shall investigate both the recent past and present trends evident in piracy.

Data and literature will be primarily obtained from secondary sources in academic journals, publications, reports and reviews, along with current affairs and news media reports. In addition, various piracy warning reports will continuously be consulted in order to remain abreast of current issues. Owing to this, our study does not include questionnaires, interviews or surveys and is therefore not producing new data.

From the above it also follows that ethical considerations and confidentiality are not required. Thus, our data will serve as the source from which our deductions will be described and explained. By taking such an approach, it is hoped that this study will offer an insight into the trends of contemporary piracy in Somalia and Southeast Asia.

The outline of the chapters will be as follows: Chapter 2 gives a theoretical conceptualisation, as well as a background to the nature of piracy. This includes a discussion of various definitions, security theory, significant pirate attacks, and a brief discussion concerning piracy and terrorism in both regions. Chapter 3 and 4 account for the causes, motivations and impacts of piracy in Somalia and Southeast Asia respectively. Chapter 5 sees a comparative discussion of the international responses and preventative measures against piracy, which is followed by the conclusions in Chapter 6.

By using a comparative research design, the apparent similarities and differences in maritime piracy are most effectively presented. Furthermore, as comparative research designs are most suited to determining reasons, causes and prevailing conditions, a comparative research approach is thus useful in identifying, explaining and analysing these similarities and differences. Thus, as this study is primarily concerned with investigating the *how* and *why* of maritime piracy, a comparative research design is most appropriate and relevant.

## CHAPTER 2

### Theoretical Conceptualisation, Background and Nature of Piracy

Maritime piracy requires a suitable definition for the purpose of bringing forward an effective understanding of its characteristics. Owing to this, our study will critically discuss a number of definitions which are presented from different angles. However, for the purpose of this study, we will conceptualise our own working definition of piracy at the end of this section, by expanding the United Nations Convention on the Law of the Sea (UNCLOS) definition. The crucial difference here will be that our own conceptualisation will hopefully address the gaps found in other definitions.

What immediately emerges with these definitions concerning piracy is a number of contentious viewpoints. In short, there is much disparity regarding an adequate definition amongst scholars. One of the most challenging problems encountered when studying contemporary piracy is a lack of cohesion and agreement in the definitions surrounding piracy. Beckman (2002: 320) vouches for a single definition which all states and organisations could use, in order to ensure coherence and enhanced clarity.<sup>2</sup>

Among such problems are the terms of armed robbery – the debate rests with questions such as: can one can classify acts of robbery at sea if the perpetrators are unarmed? Similar debates arise with the limiting of the location of piracy – is piracy confined to acts on the high seas only? What happens if acts of piracy take place in river deltas, lakes, harbours or ports? It is also necessary to ask if these definitions include actual or attempted attacks.

#### 2.1. DEFINITIONS

If one takes a look at the definition of piracy set out in the 1982 UNCLOS, one sees that piracy is defined as including the following:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

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<sup>2</sup> Here it must be noted that a definitive gap exists in the literature regarding an African definition of piracy or piracy viewed from an African perspective.

- (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
- (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

The International Maritime Bureau's (IMB) definition of piracy is as follows: "an act of boarding any vessel with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance thereof" (Beckman, 2002: 320).

Similarly, the International Maritime Organisation (IMO) uses the term "piracy and robbery against ships" (Beckman, 2002: 230) and hence their definition of piracy reads as: "any unlawful act of violence or detention or any act of depredation, or threat thereof, directed against a ship or against persons or property on board such a ship, within a state's jurisdiction over such offences."

Piracy is defined by many scholars as violence at sea, involving hijacking of crew and/or passengers for a malicious motive. Pirates either do not consider themselves as belonging to a particular state or reject that state's authority, whilst others fly under another country's flag for convenience.

## **2.2. CRITICISM OF DEFINITIONS**

### **2.2.1. UNCLOS definition**

The UNCLOS definition of piracy is viewed by many as "the global maritime constitution" and states that the responsibility to perpetrate ships in the cases of armed robbery should primarily fall on the coastal state (Huang, 2009: 280). However, Gibson (2009: 68) feels that this definition allows for all states – regardless of the nationality of pirate ships - to share the responsibility to "seize pirate ships on the high seas and try the pirates in its courts."

Although the UNCLOS definition is widely accepted and utilised, criticism is widespread. For example, Gibson (2009: 68) argues that the UNCLOS definition is "imperfectly adapted to current

concerns.” Generally, criticisms revolve around ambiguity between acts of piracy and mutiny, as well as the way piracy is perceived – specifically in territorial waters and on the high seas.

Gibson (2009: 68) makes a note of the fine distinction within the UNCLOS definition of piracy, that the “seizure of a ship by its own crew or passengers is not considered to be piracy” – and is indeed generally considered mutiny. As Halberstam (1988: 286) explains, although crew might murder the master of a ship, they will not be considered pirates as revolt is not directed against both the master and the vessel “for the purpose of converting her and her goods to their own use.”

It is also important to note that in this definition, hijacking is not considered as an act of piracy. The contentiousness of this statement can be seen by bringing forward the example of the 1985 hijacking of an Italian cruise liner, the *Achille Lauro* – whose hijackers were Palestinian Liberation Front members - boarded the vessel as passengers (Gibson, 2009: 68). This was not regarded as an act of piracy. Moreover, another problem with the UNCLOS definition is that - due to the clause that states piracy “must be committed for private ends” - it rules out any act with a political motivation (Gibson, 2009: 68).

Although the UNCLOS definition limits acts of piracy as taking place only on the high seas, it is argued that the majority of contemporary piracy occurs in a state’s territorial waters (Gibson, 2009: 68; Chalk, 2008). This is therefore a contentious issue in the definitions. Murphy (2007: 14) criticises the restrictive nature of the UNCLOS definition. In particular, the clause concerning piracy on the high seas hampers the effective prosecution of pirates, as they will often “sail from the high seas to the territorial seas of jurisdictions,” which thereby puts themselves “beyond the reach of international and domestic law” (Murphy, 2007: 14).

Owing to the criticisms, many suggestions on how to improve the definitions emerge.

Some scholars, such as Beckman (2002: 320), maintain that piracy should rather only be employed as a term of use when referring to such incidents “outside the territorial sovereignty of the coastal state” – and include incidents “on the high seas [and] in exclusive economic zone[s].” Beckman (2002: 320) goes on to say that when referring to incidents in the maritime zones of a specific coastal state, one should use the term “armed robbery.” Neethling (2010: 92) agrees, by saying that any violent act against a ship in a port or when anchored is not assigned the label of piracy and should instead be referred to as robbery at sea.

### **2.2.2. IMB definition**

Chalk (2008) argues in favour of the IMB definition over the UNCLOS, as the IMB definition includes attacks from any type of sea craft – as well as from a dockside - to constitute as acts of piracy.

Although it can be argued that the IMB definition lacks in many aspects, it does indeed provide “a context for finding evidence and statistics” on actual or attempted acts of piracy (Onuoha, 2009: 32).

Criticisms of the IMB definition are similar to that of the UNCLOS definition and scholars differ on a number of issues.

Firstly, Beckman (2002: 320) points out confusion with the IMB definition – by noting that the term “armed robbery” is ambiguous, as it can include unarmed crimes. One scholar, Mo (2002: 345), prefers the IMB definition over UNCLOS as the IMB definition regards acts of theft with the threat of violence on vessels as piracy, which the UNCLOS does not.

Secondly, Beckman (2002: 320) points to some problems with the IMB definition – particularly regarding acts of piracy “committed on the high seas.” Beckman maintains that piracy should only be attached to incidents which take place on either the high seas or in an exclusive economic zone. It can be argued that this definition also begs the question as to how best to define acts of piracy against vessels in lakes and river deltas. Are these acts of violence not considered piracy merely due to their location?

Here it would be appropriate to briefly refer to piracy in the Niger Delta. Owing to the fact that the majority of attacks take place in the myriad narrow river straits and lakes – which have been described as “relatively inaccessible” – attacks do not therefore strictly match with the IMB definition of piracy on the high seas (Vreÿ, 2009: 22). Hence, controversy occurs, in particular when dealing with the prosecution of these criminals, as they cannot be tried as pirates, only as criminals.

Vreÿ (2009: 20) offers some suggestions for expanding on the IMB definition, which clearly distinguishes between the following: sea robbery should refer to attacks occurring in port against a berthed vessel; piracy should only refer to those specific actions against vessels already sailing and “outside the protection of port authorities in territorial waters, straits and on the high seas.”

### 2.2.3. IMO definition

The IMO definition is equally contentious and Neethling (2010: 92) points out a criticism of the IMO definition, as it lacks the inclusion of “any unlawful act of violence or detention or any act of deprivation at anchor, off ports or when underway through a coastal state’s territorial waters” – as they are not considered as piracy.

Beckman (2002: 320) says that the IMO’s definition is confusing as it confines armed robbery only within a state’s territorial waters - “within a state’s jurisdiction” - and therefore fails to include offences committed on the high seas. However, it is most confusing for the simple reason that it is not clear if it does indeed include waters “within a state’s jurisdiction,” such as lakes and rivers, and is therefore an incomplete definition (Beckman, 2002: 320). Furthermore, due to the phrase “armed robbery,” this definition seems to leave out any acts of piracy which do not involve either violence or weapons (Beckman, 2002: 320).

The table below highlights differences between the IMO and IMB definitions (reproduced from Elleman *et al*, 2010: 12).

<b>TABLE 1.1.</b> <i>Contrast between the IMO and IMB Definitions of Piracy</i>	
<b>IMO</b>	<b>IMB</b>
Piracy must be committed on the high seas or in a place outside the jurisdiction of any state. A criminal attack with weapons on ships within territorial waters is an act of armed robbery and not piracy.	Distinctions do not exist between attacks on the high seas and in territorial waters.
Piracy necessitates a ‘two ship’ requirement. Pirates need to use a ship to attack another ship. This excludes mutiny and privateering from acts of piracy.	A ‘two ship’ requirement is abolished. Attacks from a raft or even from the quay are acts of piracy.
Piracy is committed for private ends. This excludes acts of terrorism and environmental activism.	Piracy may not only be committed for private ends. Attacks on a ship for political or environmental reasons qualify as piracy.
Because pirate attacks have to be committed by the crew or passengers of privately owned vessels, attacks by naval craft fall outside the bounds of piracy.	The acts of government naval craft can be deemed as piracy in certain circumstances.

### 2.2.4. Other definitions

In order to highlight just how contentious piracy definitions are, a number of other definitions are suggested, as well as their respective criticisms.



As outlined in Halberstam (1988: 274), a definition states that piracy is “every unauthorised act of violence committed by a private vessel on the open sea against another vessel with intent to plunder.”

However, if a revolt ensues on a ship, which is committed by its own crew, this definition regards the mutinous crew as pirates, even though they have committed no crime against another vessel. Thus, confusion arises. Therefore, Halberstam (1988: 274) proposes an improved definition which considers piracy as “every unauthorised act of violence[...]committed on the open sea by [one] vessel against another, or by the crew or passengers against their own vessel.”

Vreÿ (2009: 20) brings forward another definition of piracy, which refers to “an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act.”

However, Vreÿ (2009: 20) offers an expansion with a few suggestions, which include the mention of “attacks that take place in port while the ship is berthed,” as well as “actions against ships outside the protection of port authorities in territorial waters, straits and on the high seas.”

A simpler definition is that of Murphy (2007: 13), who argues that piracy is simply “unlawful depredation at sea.” Breverton, as quoted in Huang (2009: 279), defines piracy as those “assaulting behaviours taking place at sea.” Another definition is offered by Gray *et al*, quoted in Huang (2009: 279), as “boardings, hijackings, detentions and robberies at port or at anchorage.”

### **2.2.5. Other Criticisms**

Various other criticisms across the board of definitions also emerge amongst scholars. Beckman (2002: 320) offers a solution by saying that piracy should be limited to those incidents which occur in “maritime zones outside the territorial sovereignty of the coastal state, on the high seas or in an exclusive economic zone.” Furthermore, armed robbery against ships should rather be confined to incidents “which take place within the sovereignty of the coastal state” (Beckman, 2002: 320). As Halberstam (1988: 285) states, acts of piracy are “done under conditions which render it impossible or unfair to hold any state responsible for their commission.” In addition, if a specific ship commits illegal acts it can be held responsible to its government; however, if a group of pirates from “uncertain origin[s]” seize a vessel, “no one nation has more right of control over them” – therefore, one sees that there is a discrepancy regarding responsible authority (Halberstam, 1988: 285).

Therefore, one can argue that a pirate either does not identify with any state or he rejects the authority of a certain state.

### **2.3. MARITIME SECURITY**

For contextual purposes, and along with maritime piracy, maritime security also needs to briefly be defined and discussed.

Neethling (2010: 93) defines the term maritime security to refer to “the freedom from or absence of those acts which could negatively impact on the natural integrity and resilience of any navigable waterway, or which undermine the safety of persons, infrastructure, cargo, vessels and other conveyances legitimately existing in, conducting lawful transactions on, or transiting through territorial and international waterways.” Gilpin, as quoted in Onuoha (2009: 32), explains maritime security as “the prevention of unlawful acts in the maritime domain, whether they directly impact the country or region in question, or the perpetrators are in transit.”

### **2.4. SECURITY THEORY**

This study shall incorporate Tsvetkova’s (2009: 46) traditional view of security theory of how piracy “has emerged as a national security threat by fuelling the conflict in Somalia.” Tsvetkova (2009: 46) argues that Somali piracy’s “damaging impact on [Western] oil supplies” has made maritime piracy become an international security concern. Even though Somali piracy can be seen as a national security failure, it fuels Somalia’s instability (Tsvetkova, 2009: 46). In addition, this instability has a spill-over effect to neighbouring countries, as its effects can be particularly seen in illicit trade, for example. Piracy is thus also an economic security concern, negatively impacting on international trade.

As Tsvetkova (2009: 46) indicates, traditional security studies can be viewed as “the study of the threat, use, and control of military force.” Additionally, one of the main focus areas in security studies is the phenomenon of war. Specifically in the framework of Realism, war is “the main threat to a state’s existence” (Tsvetkova, 2009: 46). Security competition thus arises in order to protect the state from the threat of war, as well as any possible destabilising force.

However, Tsvetkova (2009: 46) argues that traditional security theory is insufficient in explaining contemporary maritime piracy, mainly due to the fact that Realism deals with states as the main actors. Instead, the impact of piracy on international trade should be highlighted as a pressing security concern. This study adds that the nature of this is of both a national and international security concern.

## **2.5. BACKGROUND AND NATURE**

The purpose of this section will be to outline a recent chronology of recent events of acts of piracy in Somali and Southeast Asian waters. In order to investigate why piracy demands an international approach, one must be made aware of the various aspects concerning contemporary piracy. According to Kisiangani (2010: 362), contemporary piracy in both regions has “increased in occurrence and in the range of attacks” – which prompts us in this section to investigate specific piracy numbers which will be noted, brought forward and contrasted. To accompany these numbers, we will focus on discussing the specific nature of piracy in these regions – for example, the manner in which pirates operate, who they are, where they commit these acts of piracy, as well as what happens during these acts. These aspects, amongst others, will be looked at in greater detail in this section.

### **2.5.1. Somalia**

According to the Shipping Federation, piracy in Somalia was rather insignificant until after 2000 – after which the frequency of pirate attacks tripled (Cawthorne, 2010: 17; Luft and Korin, 2004: 61). For example, only 23 attacks were reported in the Somali region (Chalk, 2001).

Between 2001 and 2008, Somali waters experienced 206 attacks of piracy, which - along with Nigeria, Ghana and Tanzania – accounted for 85% of all African piracy attacks (Nincic, 2009: 4).

Piracy figures peaked during 2005 and 2006, with statistics estimated at around 515 attacks in the Somali region (Fouche, 2009: 71). In addition, 826 “incidents” and 44 hostage situations were reported at sea. It can be argued, as Neethling (2010: 90) does, that 2008-2009 was characterised by a “surge in piracy not seen in generations.” This could mainly be attributed to the worsening socio-economic situation in Somalia (Wilson, 2009: 12).

Even though the figures for 2009 show 217 attacks, the International Maritime Bureau (2010) show that successful attacks decreased from 2008. This phenomenon could be attributed to the increased “deterrence work of [international] naval forces” (International Maritime Bureau, 2010).

Concerning 2010 statistics, just over 50 incidents were reported to have taken place in the Somali region (International Maritime Bureau, 2011). The IMB also reports that more hostages were taken at sea than during any other recorded year, accounting for 92% of all hostage incidents at sea.

An increase was again recorded by the IMB, showing 194 Somali piracy incidents in 2011 so far (International Maritime Bureau, 2011).

Therefore, if one analyses the trends, it is evident that Somali piracy became pronounced around 2001, with a surge occurring in the years of 2005 and 2006. This peak continued until 2009, with some reductions occurring in 2010 and the first part of 2011.

Some authors, such as Cawthorne (2010: 17), maintain that the 2005 hijacking of the *MV Feisty Gas* tanker, which was ransomed for US\$315 000, prompted international attention to piracy in the region. However, Murphy (2007: 29) maintains instead that the 2005 attack of the *Seabourn Spirit*, an American cruise ship, brought prominence to Somali piracy.

Amongst other highly significant attacks that brought Somali piracy to international attention was the attempted hijacking of the *Maersk Alabama*. This was “the first act of piracy against a US vessel in nearly 200 years” and, consequently, three Somali pirates were killed by US forces (Swart, 2009: 48). In another incident, the 2008 attack on the *Sirius Star*, a Saudi oil-carrier, was highly significant as it accounted for the largest ship to have been hijacked, as well as the furthest distance from shore – more than 800 kilometres off the Kenyan coast (Onuoha, 2009: 37).

#### **2.5.1.1. Nature of Attacks**

One can note that the scale, frequency and sophistication of piracy have increased dramatically over recent years. Owing to this, it suffices to quote Ibrahim (2009: 125), who describes the Indian Ocean in general as an “inherently unstable region where piracy... [is] well-entrenched.”

Although in general, pirate attacks occur in a state’s territorial waters, since 2008 however - as Fouche (2009: 68) reports - this is seeing a shift to the high seas. One of the explanations for this trend could be attributed to the increased international naval presence along the coastline.

Furthermore, pirate attacks have even been reported much further down the coast of East Africa – even around Madagascar (Crisis Group, 2009). It is thus that Somali piracy in particular is

characterised as taking place further offshore than in other hotspots. Moreover, Kisiangani (2010: 363) notes that attacks in the Seychelles region have also been reported.

Essentially, Somali waters are regarded as “extreme danger zones” and Kisiangani (2010: 363) notes that the Somali pirate stronghold is mainly concentrated in the semi-autonomous region of Puntland - mainly in the port town of Eyl (Onuoha, 2009: 34). Somali pirates have been reported to fall under one of two main groups – one of which is situated in the southern region of Somalia and the other in Puntland (Cawthorne, 2010: 152).

As is the case in the Gulf of Aden and the Strait of Malacca, the “enormous volume of commercial freight being funnelled through congested and ambush-prone maritime bottlenecks around the world creates age-old opportunities for pirates” (Chalk, 2009). Such is the scale of piracy in these particular regions that they are widely regarded as posing a direct danger to international shipping.

Wilson (2009: 14) notes that pirates are generally successful in their activities as their area of operation in Somali waters is an “enormous geographic area with multiple targets [with] no authority on land to challenge them.” To explain, we see that the narrowest area in the Gulf of Aden is less than 30 kilometres wide – which is in stark contrast to its widest area, which consists of more than 3 million km<sup>2</sup> of sea (Wilson, 2009: 14). Approximately 60% of global oil is transported by roughly 4 000 “slow and cumbersome” tankers, which have minimal protection against pirates (Luft and Korin, 2004: 62). Owing to this, it is evident that ships sailing in this particular region are extremely easy targets for pirates.

#### **2.5.1.2. How Attacks Occur**

It has been known that pirate gangs are rather large in number – sometimes up to 350 members, who prefer calling themselves Somali “coast guard,” and are mainly ex-fisher- and militiamen (Cawthorne, 2010: 14).

These militia groups “tend to operate independently from one another, each within a pre-defined and mutually agreed sphere of influence” in the region (Chalk, 2001). Somali pirates are known to operate with an extensive land team, which consists of experts who manage finances and buy equipment - from lawyers to electronic technicians to ex-military men – in order to conduct effective operations. For example, former fishermen have the required nautical expertise and work with ex-militiamen who have the necessary physical training and are adept with weapons due to

their military training. The electronic technicians are usually young men with extensive knowledge of communications equipment for “tracking and co-ordinating” their attacks (Cawthorne, 2010: 14).

In addition, pirate gangs employ accountants and lawyers who “carry out the ransom negotiations and handle the money” (Cawthorne, 2010: 14). Furthermore, Kemp (2009: 5) notes that pirates are “well-organised and professional.” For example, pirates have an elaborate network on land and at sea – with collaborators working in harbours with extensive knowledge concerning the ideal ship to be attacked.

Although generally heavily-armed, pirates have preferred not to resort to violence and murder, although murders as a result of piracy could be increasing (Swart, 2009: 51). As Chalk (2001) explains, “because the primary objective is to secure payments for the release of live hostages, lethal force is avoided as far as possible.” Pirates claim to have “no hostile intent” towards the crew, as they only want money (Cawthorne, 2010: 163). Farley (2009: 11) adds that Somali pirates generally “take care to preserve hostages.” However, this does not mean that pirates are averse to violent behaviour – instead, they are more than willing and able to carry out murders if crews do not comply. For example, in 2000 the *USS Cole* was attacked in Yemen, with 17 American sailor deaths and 39 injured (Swart, 2009: 48).

Pirates have become so sophisticated that they have even been known to stage “dummy” attacks to confuse and “divert warships away from the area of real attack” (Kisiangani, 2010: 363). Also, it has been argued that these pirates are extremely knowledgeable about their waters of operation, as they have an acute understanding of the “challenges constraining international naval defence efforts” (Kisiangani, 2010: 363).

According to Chalk (2008: 5), three chief piracy types are currently found in Somalia: attacks against berthed ships in ports; robbery of vessels on the high seas; and, assaults involving theft, serious injury or murder at sea. Firstly, attacks against berthed ships in port thrive in harbours with minimal security and usually involve “opportunistic attacks mounted close to land by small, high-speed craft” and armed muggers (Chalk, 2008). Their goal is generally to take money. Secondly, robbery of vessels is described as “medium-level assault” and usually involves well-organised gangs which can “seriously disrupt maritime navigation” (Chalk, 2008: 5). Thirdly, assaults involving theft, serious injury or murder at sea tend to follow a particular pattern and the captured ship is oftentimes used for illegal trade.

This pattern is as follows: the pirates seize the ship and offload its passengers into smaller boats and thereafter the ships are “renamed, re-registered under flags of convenience and issued with false documentation” (Chalk, 2008: 5). Whilst being kept hostage, pirates negotiate for a ransom with ship owners, often via the captain. When the ransom demands are met, the cargo on the ship is “taken to a designated port where it is sold to a buyer who is often a willing participant in the venture” (Chalk, 2008: 5).

As explained by Fouche (2009: 71), Somali pirates usually use larger “mother” vessels to launch smaller, faster boats to use in the actual hijacking of a ship. Generally, pirates speed up alongside ships in smaller boats and throw ladders with hooks to climb aboard. Pirates have also been known to surround ships and fire at them, in order to force them to surrender their vessel. Once successfully on board, they threaten the crew with weapons while negotiating for their ransom – which can be anything from US\$1 million to US\$4 million (Neethling, 2010: 90). As previously mentioned, these acts are thoroughly planned and often collaborate with land-based pirates.

As Cawthorne (2010: 5) explains, one of the characteristics of successful pirate attacks is “the speed with which it is carried out.” For example, pirates are known to “be able to identify, catch, board and take control of a ship in less than 15 minutes, all without bloodshed” – as Somali pirates are notorious for carrying out ‘clean attacks’ where each pirate member complies with strict orders in order to ensure the safety of the hostages (Cawthorne, 2010: 5).

Pirates are known to target an array of sea craft – from bulk carriers and tankers to fishing trawlers, yachts and tugboats – as well as humanitarian vessels. For example, in 2001 Yemeni pirates attacked two British cruising yachts which were sailing in the Gulf of Aden (Cawthorne, 2010: 103). Another such prominent attack on tourists was the in 2008 a French luxury yacht, *Le Ponant*, was a victim of piracy in the Gulf of Aden (Cawthorne, 2010: 14). Moreover, pirates are known to be “clearly undeterred” by the presence of international navies in the area (Swart, 2009: 48).

Pirates’ weapons are generally thought to be obtained from Somalia, a country which sees a large trade in small arms, and include the use of grenades, anti-tank missiles and automatic weapons. Piracy has become advanced and sophisticated in its organisation, as well as in its capacity. For

example, pirates have been known to make use of global positioning systems (GPS) and satellite telephones, in conjunction with large-scale grenades and assault rifles (Kisiangani, 2010: 363).

It has also been reported that pirates intercept signals transmitted by ships – which are open-access automatic identification systems (AIS) – which is then used to intercept ships (Luft and Korin, 2004: 61; Fouche, 2009: 71). Owing to this, it has been recommended that captains switch off their AIS when sailing in Somali waters to prevent pirate interception.

### **2.5.1.3. Ransoms**

Owing to the vast sums of money involved in maritime piracy, one can argue that piracy as an activity has evolved into a multimillion-dollar industry. As Kisiangani (2010: 363) proposes, it has also evolved in both magnitude and sophistication. The main aim of the pirates is to obtain money – which is translated into hefty ransoms. Ransom negotiations tend to begin at a very high figure and are usually brought down via negotiations – sometimes up to half of the originally demanded amount (Chalk, 2001). These negotiations are of an indirect nature and include intermediaries on the pirates' behalf and ship owners, associations and NGOs (Chalk, 2001). As a principle, governments tend not to involve themselves directly in these negotiations. Ransoms are known to be excessive, as was the case in 2008 when pirates demanded US\$20 million for a Ukrainian weapons-carrier (Neethling, 2010: 91). Similarly, the hijackers of the *Sirius Star* demanded a ransom of US\$25 million. However, it is unclear if ransoms are indeed a means to an end or merely part of the package in pirate activities.

### **2.5.2. Southeast Asia**

Although it may seem Somali piracy is at the centre of contemporary maritime piracy incidents, this was not always the case. For many years – even centuries – the Southeast Asian region was regarded as a hotspot for pirate attacks. As far back as the mid-1800s, after the end of the First Opium War, a surge in piracy attacks in Malaysian waters was reported (Elleman, 2010: 99). Mostly Chinese vessels were attacked. Southeast Asian waters in the late 1970s and early 1980s were regarded as being “beset with pirates” (Elleman, 2010: 103). Similarly, pirate attacks during this time “occurred most frequently” in the waters of Thailand (Elleman, 2010: 103). It is approximated that 1981 saw 571 deaths and 243 abductions as a result of Southeast Asian piracy (Elleman, 2010: 103).



In more recent times, the Southeast Asian region has managed to still maintain its “hotspot” image. For example, Lloyds of London declared the Strait of Malacca region an “Area of Enhanced War Risk” in 2005 (Chalk *et al*, 2009: 3). The waters of Singapore, Indonesia and Malaysia were also included and referred to in this statement.

However, it has been contested as to which region is more of a hotspot for contemporary piracy – Somalia or Southeast Asia. Although this study admits that piracy in Somalia perhaps receives more prominent media attention, Southeast Asian piracy is neither insignificant in scale, nor severity. Nevertheless, this study will argue that Somali piracy could be considered more of a hotspot in recent times for pirate activity, whereas Southeast Asia could be considered as more of an historical hotspot for attacks.

As the International Maritime Bureau’s statistics (2011) indicate, Southeast Asian waters – in particular the Strait of Malacca – saw a decline in the number of pirate incidents in 2009, which only recorded 15 attacks. The majority of these were opportunistic in nature and remained at much the same level as the previous year. It could be argued that this decline is attributed to the various regional efforts by Southeast Asian navies to “curb piracy and armed robbery in its waters” (International Maritime Bureau, 2011).

However, this is in stark contrast to the statistics of 2008 – which show an average of one pirate attack occurring every week (Cawthorne, 2010: 163).

#### **2.5.2.1. Significant Events and Statistics**

As Chalk (1998: 89) explains, attacks in Southeast Asia were at their highest in 1991, with 102 incidents – which has made this region “the most piracy-prone [in] the world” during that time. During 1992 and 1996 approximately 404 attacks were reported (Chalk, 1998: 89).

The year 1990 saw “one of the first recorded instances of ship and cargo theft” against the *Marta*, which was sailing in the direction of Korea from Thailand (Elleman *et al*, 2010: 12). It is believed that the 1992 tanker collision of the *Nagasaki Spirit* and *Ocean Blessing* was caused by pirates who had seized *Ocean Blessing* in the northern part of the Strait of Malacca – resulting in a fire and the death of the crew. However, the hijacking of the *Anna Sierra* in 1995 gave more prominent media attention to Southeast Asian piracy (Murphy, 2007: 37).

The majority of piracy which took place in the 1990s occurred in the waters of Southeast Asia (Renwick and Abbott, 1999: 185). For example, between 1991 and 1998 approximately 579 out of 1243 global attacks occurred here – which amounts to about 46%. Specifically, the Strait of Malacca saw 53 of these attacks. It was reported that during these attacks the majority took place in the dark, with pirates brandishing knives and using small boats with grappling hooks to climb aboard (Vagg, 1995: 70). In addition, most of the attacks lasted only about 20 minutes.

As Chalk (1998: 90) states, violent attacks in Southeast Asian waters increased during the late 1990s – for example, early 1997 saw 34 violent assaults – and included six deaths. In 1998 it was estimated that the Strait of Malacca saw the busiest water traffic passing through daily, with about 500 ships at its maximum (Chalk, 1998: 92).

However, this stands in sharp contrast to the figures later on, when 75 incidents occurred in 2000. Throughout the early 2000s the figures hovered around the 20 mark, dropping to about seven incidents in 2007 and only two in 2008 (Elleman *et al*, 2010: 12).

The IMO statistics show an undulating trend between the 1980s to the 2000s, as piracy attacks began as “insignificant” and then increased “with a peak in 2000, after which it declined again somewhat” (Murphy, 2007: 22). Between 1998 and 2000, approximately 13 pirate acts were reported in Southeast Asian waters (Beckman, 2002: 317). Among such incidents were the 1998 hijacking of the *Tenryu*, as well as the *Marine Master* and the *Alondra Rainbow* which were hijacked in 1999 (Cawthorne, 2010: 177). As Murphy (2007: 18) shows, between 2000 and 2005, the Strait of Malacca showed “an overall reduction” in attacks on large ships, with approximately 31 kidnappings aboard ships.

According to Beckman (2002: 317), Southeast Asian waters are regarded among the most dangerous in the world, and included 117 actual and attempted attacks in 2000. In the Strait of Malacca specifically, 75 incidents took place in 2000 (Beckman, 2002: 317). Amongst these was the hijacking of the *Global Mars*, a tanker from Panama.

The Strait of Malacca accounted for 42% of pirate attacks in 2003 (Luft and Korin, 2004: 63). One such vessel that was attacked was the *Dewi Madrim*. During the years between 2002 and 2007 the Strait of Malacca witnessed 258 pirate attacks – which prompted Lloyd’s of London to declare it an “Area of Enhanced War Risk” in 2005, as previously mentioned (Cawthorne, 2010: 163). However, during 2004 and 2007 Southeast Asian piracy figures saw a 50% decrease – accounting for only 25% of worldwide incidents (Farley, 2009: 1; Beckman, 2008: 8).

It is imperative to note that although bodies such as the IMB keep records of reported piracy incidents, ship owners are often reluctant to report incidents of piracy, as this could mean they pay more for insurance. Thus, many pirate attacks remain unreported and consequently, piracy figures are often inaccurate.

#### **2.5.2.2. Nature of Attacks**

Usually, Southeast Asian pirates will brandish knives or machetes, and sometimes guns, to steal valuables from the crew of the ship being hijacked (Beckman, 2002: 317). As Mo (2002: 345) explains, piracy acts can range from simple acts of robbery at sea from the crews of vessels to entire hijackings of ships. Generally however, pirates prefer to use the threat of violence rather than the act, although in some incidents crew have been known to be killed (Mo, 2002: 344). Owing to the fact that it is forbidden for crew members to carry weapons on board, pirates know that there is “no risk” from crew to fight back and they therefore take advantage of this (Cawthorne, 2010: 163). One characteristic of Southeast Asian pirates is that they prefer to board ships and steal valuables, rather than demand elaborate ransoms.

Due to the enormous “scope and accuracy” of the piracy acts, international organised crime syndicates have been suspected to be involved in Southeast Asian piracy (Mo, 2002: 347).

Murphy (2007: 28) notes that pirate activity in the Strait of Malacca and Singapore is “characterised by its variety.” Murphy (2007: 28) makes a note of some types of piracy in this area: small criminal gangs engaging in “petty theft;” as well as “armed [and] highly organised” ones which attack larger vessels. Generally “common” pirate attacks occur along the coast, whilst organised forms of piracy tend to occur in deeper waters.

It has also been reported that pirates use “deception techniques” to pretend to be police or military boats, or even using a type of spy on a target ship – who “transmits updates of the ship’s position and help the [pirates] get on board” (Murphy, 2007: 36). The 2006 hijacking of the *MV Kimtrans Mega-Lift* is a particular incident which highlights the skill of Southeast Asian pirates: it was reported that the pirates “had intentionally sunk the vessel in shallow water to hide it from authorities so that they could later dive and salvage the valuable cargo” (Murphy, 2007: 37).

A common phenomenon that occurs in the Strait of Malacca is ‘shopping’ – in which pirates board any passing ship for the sole purpose of stealing money on board. The ‘phantom ship’ phenomenon involves pirates renaming and repainting stolen ships (Murphy, 2007: 37).

It has been known that in order to “ensure their safe passage” ship owners have been willing to pay pirates a fee beforehand (Kemp, 2009: 185). It has also been reported that pirates often collaborate with members of the crew of ships they attack – with crew members passing on information such as the ship’s co-ordinates (Kemp, 2009: 185).

One trend that emerges in the Southeast Asian region particularly is that bulk carriers, with typically low freeboards and smaller crews, are favoured for attacks (Murphy, 2007: 18).

In Southeast Asia in particular, the general pirate attack occurs as follows: a speedboat is used to approach the ship at night, where the pirates use ladders and climb aboard, threatening the crew by force to stop the vessel (Murphy, 2007: 20). However, a number of speedboats can also be used to “weave in front of and around a target to distract the bridge while accomplices board at the back” (Murphy, 2007: 20). Piracy in the Strait of Malacca is usually conducted from powerful small motorboats launched off one of the many islands in the region.

In contrast to Somali piracy – largely characterised by targeting large oil-tankers and heavy container vessels – Southeast Asian pirates have no particular rule for selecting ships to attack. Here it must be noted that the majority of vessels attacked were usually small tankers or local cargo ships (Murphy, 2007: 38). Even tug boats – such as the 2007 attack on the *Brantas 15* – have been targeted by pirates.

### **2.5.2.3. Location of Attacks**

As Van Rooyen (2011: 7) notes, “the Indian Ocean contains a number of the world’s maritime choke points” – which are described as points which restrict the flow of ocean traffic, and consist of, amongst others, the Gulf of Aden and the Strait of Malacca. In addition, it is important to note that the Indian Ocean’s trade routes are connected to the Mediterranean – and ultimately, Europe – via the Suez Canal, which is accessible only via the Red Sea (Van Rooyen, 2011: 7).

The geostrategic importance of the Indian Ocean has caused the historical presence of both regional and international navies (Van Rooyen, 2011: 5). In modern times, this region is still regarded as

being strategically important, mainly due to the energy and resources of the region. This region “carries half of the world’s container ships, one-third of the bulk cargo traffic and two-thirds of the world’s oil shipments” (Van Rooyen, 2011: 6). In addition, much of the world’s important trade routes and sea lanes are found here. To substantiate this argument, Van Rooyen (2011: 7) notes that the Indian Ocean “encompasses...a network of dynamic trade, as well as a network of...piracy.” As is the case in the Suez Canal and the Strait of Malacca, the “enormous volume of commercial freight being funnelled through congested and ambush-prone maritime bottlenecks around the world creates age-old opportunities for pirates” (Chalk, 2009).

The Strait of Malacca in particular is the 800 kilometre corridor which separates Indonesia and Malaysia and has been described as “the most dangerous passage of all” (Luft and Korin, 2004: 63). These Strait are known for being the second-busiest shipping lane in the world, carrying around a fifth of the world’s sea trade (Kemp, 2009: 179; Cawthorne, 2010: 163). The region of the Strait nearest to Singapore is particularly hazardous, as this is where the channel is at its narrowest. Consequently, ships passing through here are forced to slow down and are thus easy targets for pirates, making the Strait a piracy hotspot.

As Murphy (2007: 26) explains, Southeast Asian geography typifies an “ideal environment for piracy” and it is therefore not surprising that this region sees the most pirate incidents. Southeast Asian waters especially provide a “maze of islands [and] reefs [...] that require intimate knowledge to be safely navigated” – which pirates are experts in (Murphy, 2007: 26). In addition, Southeast Asian waters have disputed and porous maritime boundaries which are easily crossed by pirates.

For example, the Strait of Malacca are claimed by Indonesia, Singapore and Malaysia – which makes it difficult to prosecute acts of piracy in the courts of the region due to the contentious nature of the territorial claims in these waters (Farley, 2009: 10).

### **2.5.3. Piracy and Terrorism**

Somalia and the Strait of Malacca have “frequently [been] identified...as a potential locus of maritime terrorism activity” (Swart, 2009: 46). As mentioned throughout this study, the central focus of this discussion will not be concerning the investigation of this possible link between piracy and terrorism. Nonetheless, one cannot disregard this link altogether. Therefore, it is necessary to

briefly address speculations and arguments concerning this “growing potential threat” (Swart, 2009: 51).

There are scholars who argue that the “possible” link between terrorism and piracy is “the greatest concern to maritime security” (Riggs, 2009: 34). For example, Riggs (2009: 52) suggests that the 2000 attack on the *USS Cole* in Yemen was the work of “al-Qaeda-linked militants.” This is also the case, Riggs maintains, with the 2002 attack of the *MV Limburg*. Allegations of the Free Aceh Movement having operating in Southeast Asia have also been brought forward, but are discussed in subsequent sections of this study. However, these claims have been debated or disputed in other works of literature.

This study shall side with the arguments pertaining to the absence of arguments to prove the concrete link between piracy and terrorism. Similar arguments can be found in the work of Riggs (2009: 35). Chalk, as quoted in Riggs (2009: 35), maintains that there “has been no credible evidence” in support of the concrete link between piracy and terrorism. Furthermore, the objectives of piracy and terrorism are described as entirely different. It is imperative to note, as Tsvetkova (2009: 44) argues, that terrorism “can serve as an argument supporting securitisation but cannot serve as a catalyst of piracy.” Likewise, piracy can be viewed as having a “strong potential to become a weapon of international terrorism” (Tsvetkova, 2009: 52).

Arguments that highlight the possibility of this link occurring are common, such as that of Tsvetkova (2009: 48), which argues that piracy could facilitate terrorism. Reasons for this include the fact that the “porous borders” of Africa have “provided an ideal conduit for the export of terrorism on land” (Swart, 2009: 34). This could contribute to “a potential new thoroughfare for maritime terrorists to operate at sea” (Swart, 2009: 34).

Hence, although many scholars vouch for the possibility of a link between piracy and terrorism (Swart, 2009: 52), these remain of a more speculative nature than solid evidence. Likewise, Swart (2009: 49) highlights the presence of scepticism of the link between piracy and terrorism. Therefore, in this regard, this study argues that very few solid arguments exist that directly point to the link between piracy and terrorism.

## Chapter 3

### Somali Piracy: Causes, Motivations and Impacts

#### 3.1. CAUSES AND MOTIVATIONS

In order to have an enhanced and holistic understanding of contemporary maritime piracy it is necessary to identify and explain its causes and motivations. Avoiding depictions of piracy being merely a criminal phenomenon, our study warrants closer inspection and thorough investigation concerning these specific aspects. This section will largely be based on the work of Murphy (2007) and Chalk (2008), together with several additional contributing factors, in order to create an original framework with which to analyse the main causes for piracy in Somalia.

##### 3.1.1. Main Factors

###### 3.1.1.1. State Failure and Instability

Chalk and Smallman (2009) argue that piracy has its roots on land and not at sea, as is oftentimes thought. Moreover, piracy reflects the “underlying socio-economic conditions on land” – if the specific conditions on land involve conflict, it is conducive to piracy as it “thrives when coastal regions are troubled by war” (Chalk and Smallman, 2009; Murphy, 2007: 15). It can therefore be argued that solutions to piracy require approaches targeting the failed situation on land in Somalia.

It is imperative to note the main argument of this particular study – it posits that the absence of any kind of political stability and legitimacy in Somalia is a direct cause of piracy. Moreover, although piracy is not politically motivated, it is directly linked to the existing political conditions in Somalia (Murphy, 2007: 11). Elleman *et al* (2010: 224) agree that piracy is directly related to political and economic conditions, as well as government legitimacy and the maintenance of law and order. For example, piracy tends to thrive in areas where there is an absence of law enforcement, as well as economic or political upheaval – a description which is particularly fitting for present-day Somalia. As Riggs (2009: 9) appropriately explains, piracy “is a symptom of conflict and disorder that erupts on land when coastal regions have weak or failed governments.” It is therefore that pirates exploit the weaknesses of government and are virtually “encouraged by the lack of security” (Riggs, 2009: 9).



### **3.1.1.2. Socio-Economic Factors**

Chalk (2009: 1) points out the necessity of understanding that piracy is an economically driven and motivated by opportunity. The fact that ship owners readily comply and meet pirate ransom demands gives even more of an incentive for this kind of criminal activity to flourish. Hence, pirates see it as a viable opportunity.

Most scholars are in agreement that piracy is not primarily motivated by political or ideological goals, but that in fact most pirates are young men and often former militia members; being drawn to piracy by opportunities for gain (Neethling, 2010: 93; Rotberg, 2010: 4). Furthermore, as Cawthorne (2010: 145) says, “not only does piracy bring money, it brings respect.”

Elleman *et al* (2010: 224) argue that motivations for piracy are related to economic deprivation and cite “sudden and severe impoverishment, especially among seafaring communities” as the main cause. This is especially evident in Somalia and will be discussed in greater detail in subsequent sections.

### **3.1.2. Other Contributing Factors**

#### **3.1.2.1. Lack of Maritime Security and Institutional Weakness**

Difficulties concerning maritime surveillance usually involve a lack of funding. Moreover, the lack of effective maritime security, especially in harbours, has consequently caused piracy to thrive (Chalk, 2008: xii). The absence of legitimate law enforcement attracts criminality and in effect provides an environment in which pirates are essentially free to operate (Murphy, 2007: 15). This problem is further exacerbated due to the fact that law enforcement at sea is expensive – requiring extensive land, sea and air resources to effectively conduct security operations. Consequently, many states do not have effective capacity or means of law enforcement. The absence of effective jurisdictional institutions to address piracy means that this criminal activity is largely encouraged (Chalk, 2008: xii). In contrast, a robust judicial system would essentially lower the risks for pirates to commit crimes. As a result, the more effective a state’s legal system, the lower the risk for lawless activities to occur - such as piracy. Indeed, problems within international law concerning piracy create obstacles which hinder accountability and consequently weaken the system to effectively prosecute pirates.

### **3.1.2.2. Vastness of Maritime Realm and Favourable Geography**

It is imperative to be aware of the environment in which piracy manifests itself. This so-called ‘maritime realm’ can be considered as an ideal environment for piracy due to its “vast and largely unregulated nature” (Chalk, 2008: 2). For example, the maritime environment has a tremendous expanse and consists of more than 30 million square kilometres of the earth’s surface (Swart, 2009: 44). Due to the fact that the majority of this environment takes the form of “vast expanses of high seas” it essentially means that these regions are “beyond the jurisdiction of any one particular state” (Swart, 2009: 44). It is therefore argued that this environment is considered essentially anarchic and lawless in nature. Swart (2009: 44) posits that the maritime realm consists largely of “ungoverned spaces” which have either weak, contested or no state control. Consequently, criminal networks are rife.

Similarly, Greenberg *et al* (2006: 11) suggest that due to the fact that piracy takes place at sea – oftentimes in remote regions – attacks occur largely “out of sight.” This serves to further perpetuate the anarchic nature of the maritime realm. Favourable geography is important for pirate activity, as piracy is viable only if the area of operation provides a “rewarding hunting ground, moderate risk and safe havens” (Murphy, 2007: 15).

### **3.1.2.3. Increase in Sea Traffic and the Promise of Rewards**

The increase in global sea traffic has “provided pirates with an almost limitless range” of targets (Chalk, 2008: xii). In addition, the vast number of vessels sailing through narrow chokepoints cause ships to be even easier targets, as they are required to slow down in these areas.

The promise of rewards increase motivations for piracy to be committed, as even petty theft off vessels brings high monetary value (Murphy, 2007: 17). Therefore, the rewards for committing acts of piracy outweigh its risks.

### **3.1.2.4. Permissive Political Atmosphere and Cultural Acceptance**

As previously discussed, a permissive political environment is a direct consequence of weak states and – combined with an absence of law enforcement – piracy flourishes (Murphy, 2007: 16). Therefore, it is argued that weak states are unable to take action against piracy. This permissive political environment tends to originate from state corruption, as well as the presence of “supportive

criminal infrastructure” (Murphy, 2007: 16). Furthermore, as Murphy (2007: 16) argues, although all states are legally allowed to arrest pirates on the high seas under their respective domestic laws, few do. Here, legal problems are brought forward. As Riggs (2009: 10) argues, “weak governments encourage lax law enforcement” – which again encourages criminality to flourish.

### **3.1.2.5. Global Proliferation of Weapons**

The global proliferation of weapons has made arms easily accessible for pirates, which has consequently made their activities “more destructive and sophisticated” (Chalk, 2008: xii). Weapons are easily available, cheap and easy to use, which further contributes to piracy success.

## **3.2. ANALYSIS OF FACTORS**

It now becomes necessary to discuss each factor with specific reference to the Somali case study concerning contemporary maritime piracy.

### **3.2.1. Main Factors**

#### **3.2.1.1. State Failure and Instability**

Kisiangani (2010: 362) notes that the key cause of Somali piracy is state failure. In addition, poverty and foreign “encroachment” of Somali fish resources are also notable factors. Owing to the absence of effective governance, Somalia is unable to exercise authority over the region and therefore “provides a security dilemma” (Neethling, 2010: 95). In addition, the absence of both a naval and armed police force further exacerbates the problem and Somalia is essentially left helpless. A singular authoritative body which could control Somalia’s waters is absent and instead the coastline is patrolled by “self-promoted militia” (Coffen-Smout, 2008). Consequently, it is argued that piracy – and many other security issues in the region - will continue as long as there is no functioning government.

It is widely accepted that since 1991, Somalia has been “in virtual anarchy” (Onuoha, 2009: 37). Somalia is a “decentralised federation of regional political entities” and consists of the unrecognised Republic of Somaliland, the self-proclaimed Puntland State, Jubaland and the “future Banadir regional administration around Mogadishu when warlords settle their differences” (Coffen-Smout,

2008). This fragmented system clearly illustrates the instability of Somalia. Warlords and armed militias are rife and virtually control Somalia's coast, making Somalia insecure and developing into a "criminal economy" (Onuoha, 2009: 37). Therefore this criminality and instability has extended from land to sea. Somalia is described as being "saturated" with illicit arms and – as is the case in the greater Horn of Africa region – is known for its porous borders (Onuoha, 2009: 37). Therefore, many scholars, such as Onuoha (2009: 37), are not surprised that piracy occurs in Somalia.

Weir (2010: 208) argues that state instability is "both the cause of and permission for" piracy. In other words, state failure of Somalia, its civil war and lack of effective state authority have served as a favourable environment for piracy to manifest. Furthermore, owing to the collapse of Somalia as a state, instability has undermined any form of legitimacy in the country. Somalia's waters have been left unmonitored and "became a cost-free dumping zone for [foreign] industrial toxic waste" (Kisiangani, 2010: 362). As the International Crisis Group (2009: 3) fittingly indicates, Somali piracy "is a dramatic symptom of deeper problems." One can aptly describe the situation by saying that "the lack of stability ashore has impacted negatively on the situation at sea" (Neethling, 2010: 95).

### **3.2.1.2. Socio-Economic Factors**

Somalia's Siad Barre regime had a small protective coastal force to protect Somalia's fisheries, but this changed when the Barre regime collapsed (Weir, 2010: 210). This force was responsible for "guarding" the fish resources and restricted foreign access to its stocks. However, when the regime collapsed foreign exploitation was uncontrolled and depleted fish resources. Somali fishermen depended solely on the rich fish stocks for their livelihood and, as Neethling (2010: 95) argues, Somali fishermen wanted to take matters into their own hands, as they were frustrated with the inaction of their government in protecting fishing resources. As a direct consequence of this foreign exploitation, these fishermen decided to take immediate action to compensate for their losses. This action took the form of local clan militias against foreign ships.

One of the first incidents of the 'coastguard' taking action against foreign fishing vessels was the 1998 hijacking of an Italian boat - which was held hostage for almost two months by Somali militia who demanded a US \$200 000 ransom (Coffen-Smout, 2008). This vessel was hijacked as the pirates claimed it was "fishing illegally, destroying marine life and stealing marine products from [Somali] territorial waters" (Coffen-Smout, 2008).

Another incident was the 2006 hijacking of two Yemeni fishing boats who were apparently fishing illegally in Somali waters (Neethling, 2010: 96). Incidents such as these soon developed into more elaborate attacks and became more organised, eventually resulting in fully-fledged piracy.

In addition, - as a consequence of the decline in fish stocks, as well as a general worsening the economy - unemployment in coastal villages prompted fishermen to turn to piracy to make a living (Bateman, 2010: 137). Today, this criminality is left virtually unchecked, owing to the lack of effective government in Somalia.

Elleman *et al* (2010: 224) argue that Somali pirates have “claimed nationalist motives,” as they are “fighting to defend the nation’s fishing interests.” However, although this study sees some merit in this view, it will instead side with arguments supporting the fact that pirates have no political or ideological motives, as previously mentioned. Hence, it is evident that foreign exploitative fishing in Somalia has “catalysed desperate acts of maritime piracy” (Fouche, 2009: 71). It is therefore that one sees how Somali piracy originated in its fishing disputes.

### **3.2.2. Other Contributing Factors**

#### **3.2.2.1. Lack of Maritime Security and Institutional Weakness**

Somalia had an armed patrolling navy under the Barre regime, but this collapsed along with its government in the early 1990s – leaving Somali waters unprotected and virtually lawless. Partly for this reason Riggs (2009: 48) argues that “legal and jurisdictional weakness is an outgrowth of statelessness that exists in Somalia.”

#### **3.2.2.2. Vastness of Maritime Realm and Favourable Geography**

Somalia has an extremely favourable geography in which pirates can pursue their activities. Somalia has over 3 000 kilometres of coastline around the Horn of Africa and the Gulf of Aden – which essentially provides a large playing ground for pirates to operate in (Riggs, 2009: 9). In addition, owing to the situation on land, pirates are able to hijack ships on the high seas and safely return to shore – as there is no threat of being prosecuted by any authority. Riggs (2009: 50) explains that Somalia’s geography “plays a key role” in allowing pirates to execute attacks. In addition, the Gulf of Aden is strategically important for international sea traffic, as avoiding the Gulf of Aden would mean for ships to be redirected around the Cape of Good Hope – which

increases costs significantly (Riggs, 2009: 50). Moreover, Wilson (2009: 14) notes that pirates are generally successful in their activities as their area of operation in Somali waters is an “enormous geographic area with multiple targets [with] no authority on land to challenge them.” To explain, one sees that the narrowest area in the Gulf of Aden is less than 30 kilometres wide – which lies in stark contrast to its widest area, consisting of more than 3 million km<sup>2</sup> of sea (Wilson, 2009: 14).

### **3.2.2.3. Increase in Sea Traffic and the Promise of Rewards**

As is the case in the Gulf of Aden and the Strait of Malacca, the “enormous volume of commercial freight being funnelled through congested and ambush-prone maritime bottlenecks around the world creates age-old opportunities for pirates” (Chalk, 2009). Such is the scale of piracy in these particular regions that they are widely regarded as posing a direct danger to international shipping. Approximately 60% of global oil is transported by roughly 4 000 “slow and cumbersome” tankers, which have minimal protection against pirates (Luft and Korin, 2004: 62). Owing to this, it is evident that ships sailing in this particular region are extremely easy targets for pirates. To substantiate this argument, one only has to bring forward the statistic provided by Onuoha (2009: 37), who estimates that about 40 of the 16 000 ships annually passing through the Gulf of Aden are hijacked.

As Riggs (2009: 54) explains, ransoms “reinforce the notion that piracy pays.” Piracy is therefore appealing and encouraged through this promise of reward. Severe poverty makes the potential risks seem smaller than the potential rewards from piracy (Riggs, 2009: 54). Indeed, the cycle of poverty, criminality and instability is perpetuated.

### **3.2.2.4. Permissive Political Atmosphere and Cultural Acceptance**

Pirates often use bribes to obtain crucial information about ships passing through the Gulf of Aden – which indicates a permissive political atmosphere on land. Evidently, without their highly-organised land and sea networks of support, pirates would be largely unsuccessful in executing attacks. Furthermore, it is widely known that various clans in Somalia directly benefit from piracy and therefore protect its activities (Riggs, 2009: 53). This has pushed forward arguments that “inter-clan rivalry, corruption, arms proliferation [and] extremism” have contributed to creating the ideal environment for piracy to manifest itself (Swart, 2009: 54).

Piracy in Somalia has essentially become acceptable as it is seen as the only alternative in a country where starvation, lawlessness and poverty are the order of the day (Riggs, 2009: 53). It is for this reason that one must consider the discussion of how pirates are viewed by their society. Somali pirates in particular are seen as heroes by locals and thus this “societal acquiescence” fuels support for piracy (International Crisis Group, 2009: 11). Accordingly, it is argued that this glorifies piracy. A sense of victimhood is also given - due to the “prolonged trauma of statelessness” (International Crisis Group, 2009: 11).

In an interview with Somali pirates, Cawthorne (2010: 143) explains how pirates consider themselves as “heroes running away from poverty” and that hijacking at sea is not seen by them as a crime. Instead, pirates see no alternative, as their country has no government to patrol their waters.

### **3.2.2.5. Global Proliferation of Weapons**

With its large trade in illegal arms, pirates’ weapons are easily-accessible and generally thought to be obtained from Somalia, and include the use of grenades, anti-tank missiles and automatic weapons. These weapons therefore provide the tools for the pirates’ highly-organised ventures.

## **3.3. IMPACTS AND EFFECTS**

It goes without saying that the impacts and effects of contemporary maritime piracy are widespread. This section will largely be based on Tsvetkova’s (2009: 50) six impacts of piracy. These are namely - illicit trade, loss of revenue from reduced sea traffic, environmental impact, threats to international security, providing a breeding ground for terrorism, as well as threatening the global economy.

### **3.3.1. Regional Instability**

Piracy serves as a security concern, due to its criminal nature. If terrorist networks operate within pirate gangs, this serves to further the security problem. Because piracy negatively affects particular international sea trading routes, it becomes both a regional and international security concern. For example, the littoral state’s unsafe trading route negatively impacts on the state’s economy; as well as on the entire region. Therefore, this security concern destabilises and hinders any form of legitimate development. In the Somali case specifically, the region is of such an already unstable



nature that piracy simply worsens and intensifies the dire situation on land. For example, the current drought and famine in the Horn of Africa are already of such a destabilising nature that piracy as a criminal phenomenon certainly aggravates the problem – especially concerning the hijacking of ships carrying international food aid (Kisiangani, 2010: 366). This perpetuating cycle of poverty and underdevelopment is discussed in more detail in subsequent sections. Indeed, as Chalk *et al* (2009: 3) highlight, piracy's effects “fall disproportionately on those states that are most severely affected by the phenomenon” – for example, the countries surrounding Somalia.

### **3.3.2. Exacerbates the Cycle of Poverty and Underdevelopment**

As well as being a regional threat, piracy undermines any progress in economic and social development. Because pirates are desperate for jobs, they turn to choosing acts of criminality to make a living. This in turn hinders any real economic development in creating jobs. Due to the criminality of piracy, any form of legitimacy and authority is undermined. Consequently, due to the fact that Somalia is essentially lawless, it fails to adequately address both the piracy and poverty situation. In turn, piracy thrives out of poverty. Hence, the cycle of poverty and underdevelopment is perpetuated.

### **3.3.3. Increase in Insurance Costs**

Kisiangani (2010: 366) outlines a number of impacts of maritime piracy specifically relevant to the Somali case study. Firstly, an increase in freight insurance costs occurs, due to the frequency and likelihood of attacks. Owing to this, many shipping companies have instead chosen to re-route their vessels around South Africa to avoid piracy attacks. Thus, the number and frequency of pirate attacks in this region “threatens the entire supply chain of traded goods” in this trade area (Kisiangani, 2010: 366).

Aware of the danger and likelihood of pirate attacks in Somali waters, many shipping companies are reconsidering this route and are almost forced to make use of alternative routes to conduct business – which are more expensive (Neethling, 2010: 35). In addition, it has been reported that crews demand more wages when sailing through these dangerous waters – a further expense for shipping companies.

### 3.3.4. Negative Effects on International Trade

Chalk *et al* (2009) argue that piracy “does not pose a threat to international maritime trade.” However, this study argues against this view. Instead, one can argue that indeed, the frequency and escalation of piracy directly impacts in a negative way on international trade. The sheer volume of international trade that passes through the Gulf of Aden and the Strait of Malacca means that any disruption in these regions poses a direct threat to international trade. In other words, if destructive weather at sea or on shore were to increase the likelihood of vessels being stranded, this would directly affect vessels passing through these regions. In the same way, piracy directly affects international trade. For example, some - such as Chalk *et al* (2009: 2) - have estimated the cost of global piracy to be in the vicinity of between \$1 billion to \$50 billion. It is also estimated that the cost of maintaining an American navy frigate in the Gulf of Aden amounts to about \$50 000 a day (Chalk *et al*, 2009: 2).

Although it can be argued that piracy is a regionally-concentrated phenomenon, it is important to understand that due to the escalation in piracy, it has become a concern for the international trading community. Additionally, piracy’s economic impacts manifest in terms of “fraud, stolen cargos and delayed trips” – which could “undermine a maritime state’s trading ability” (Chalk, 2008). For shipping companies, the costs of a pirate attack can be “particularly exorbitant” and can “damage the international standing of a trading country” (Chalk, 2008).

Somalia’s notoriously porous borders and entrenched criminal network provides the ideal environment in which to trade and smuggle illicit goods – of which the large majority takes the form of weapons and ammunition (Tsvetkova, 2009: 50). Owing to the absence of any functioning law enforcement, these illicit dealings essentially operate freely. Indeed, these arms exacerbate the lawless situation in Somalia and “fuel and prolong violence” (Tsvetkova, 2009: 50).

Tsvetkova (2009: 55) argues that piracy directly affects the international economy as it delays and destabilises oil trade through the Suez Canal, as well as increasing the price of international commerce through Somali waters. Delays in ports in these regions have increased, along with insurance rates for ships sailing in these waters (Nincic, 2009: 6). Owing to these higher costs, this in turn increases consumer prices of goods transported by sea (Nincic, 2009: 6). Concerning other economic impacts and effects, Chalk *et al* (2009) argue that no “definitive breakdown” exists of the “true economic cost[s]” of piracy. However, it has been estimated that this cost amounts to around

\$25 billion per year (Chalk *et al*, 2009). It is extremely difficult to accurately determine the exact costs of piracy, as often pirate attacks go unreported by shipping companies.

### **3.3.5. Political Impacts**

Making reference to political impacts, it is obvious that piracy undermines state legitimacy. Neethling (2010: 35) argues that piracy's political-economic impacts include the following – it threatens ships, endangers sea routes and commerce, and destabilises the region. Neethling (2010: 35) aptly states that piracy is “corrosive to political and social development,” as it “thwarts economic growth.” In other words, piracy – as an act of criminality – effectively hinders any political, social and economic advancement.

### **3.3.6. Private and Public Sector Impacts**

Greenberg *et al* (2006) outline individual, private and public sector impacts of piracy in the form of various losses to the respective sectors. For example, individual impacts include the loss of salaries and investments. Private sector impacts refer to destruction of property, ships, facilities, loss of products, loss of data, loss of customers and revenue, delivery delays, employee compensation costs and increased insurance premiums (Greenberg *et al*, 2006). Impacts in the public sector include loss of government revenue, increased financial costs of responses, economic disruptions, delivery delays, damage to infrastructure, loss of business, as well as impacts on a nation's foreign and security policies (Greenberg *et al*, 2006).

As is evident, various economic sectors are directly affected by the scourge of contemporary piracy and its effects can be described as complex.

### **3.3.7. Environmental Impact**

Piracy also has an environmental impact, as oil tankers attacked by pirates could easily pose a dangerous threat to the region if, for example, crossfire manages to trigger either an explosion or leak (Kisiangani, 2010: 366). This could obviously have disastrous consequences for marine life. One analyst has referred to a “nightmare scenario” of hijacked oil tankers colliding – with disastrous potential consequences (Chalk, 2008). Environmental impacts are a concern as rocket-propelled grenades and rocket launchers are increasingly being used by Somali pirates to attack ships – which essentially invite an explosion on an oil tanker (Tsvetkova, 2009: 50).

### **3.3.8. Threat to International Security**

Tsvetkova (2009: 52) argues that, “through the impact of piracy on Somalia, piracy is seen as an international security concern” – also due to the fact that the possibility exists that it can “present a terrorist state haven.” Moreover, arguments that East African piracy provides a breeding ground for terrorism are also rife. Here it must again be stressed that terrorism is not a cause of piracy in Somalia, although terrorism can be said to be an effect, as it works with pirate networks.

### **3.3.9. Threat to International Humanitarian Assistance**

Similarly, international humanitarian relief and assistance for Somalia is directly threatened by piracy, as a large number of humanitarian aid is transported via ships (Kisiangani, 2010: 366). Consequently, ordinary desperate Somali's are directly affected – which further exacerbates the many problems in Somalia. Piracy in Somalia is viewed as a threat to human security, as it hinders desperately-needed humanitarian aid to its citizens (Tsvetkova, 2009: 52). This is in line with securitisation theory, which Tsvetkova (2009: 54) has outlined. Briefly put, any malicious hindrance of food aid by pirates classifies their activities as a direct threat to security (Tsvetkova, 2009: 54). Currently, it is estimated that over 600 000 people in Somalia are dependent on this aid. Due to the frequency and severity of pirate attacks on humanitarian relief vessels, the World Food Program has resorted to military escorts to ships transporting aid to Somalia (Nincic, 2009: 11).

## Chapter 4

### Southeast Asian Piracy: Causes, Motivations and Impacts

#### 4.1. CAUSES AND MOTIVATIONS

As with the preceding chapter concerning Somali piracy, it is necessary to investigate Southeast Asian piracy's causes, motivations and impacts. This thorough examination is necessary in order to obtain an enhanced understanding of contemporary maritime piracy. As Chalk (1998: 96) effectively argues, Southeast Asian piracy is characterised as being a “multifaceted, complex regional security threat.” Again, in order to avoid illustrating contemporary piracy as a simple form of criminality one needs to instead focus on the root causes and motivations for piracy. Similar to the previous chapter – and in order to create an original analytical framework - this section will consult the studies of Murphy (2007) and Chalk (2008), as well as offer additional contributing factors.

##### 4.1.1. Main Factors

###### 4.1.1.1. State Failure and Instability

As piracy is indeed a reflection of the socio-economic conditions on land, the mid-1990s saw state instability in Southeast Asia – particularly in Indonesia's weakened Suharto regime. This prompted rebel groups such as the Free Aceh Movement to expand and consequently, saw more resources invested in combating this movement than in the increasing security concerns in the Strait of Malacca (Riggs, 2009: 9). In other words, more government focus and attention was placed on addressing the rebel movements than the problem of piracy – which had been around for a number of years. Therefore, as described by Elleman *et al* (2010: 224), an absence of law enforcement in a specific sector can encourage criminality. Hence, whilst state failure did not occur - state instabilities and disruptions contributed to fuelling piracy during this time.

###### 4.1.1.2. Socio-Economic Factors

Elleman *et al* (2010: 226) maintain the argument that “rapid economic and social change” directly affected the Southeast Asian region, causing “spectacular growth” of piracy. This, they argue, is the root of Southeast Asian piracy. For example, Riggs (2009: 26) maintains that the 1997 Asian

Financial Crisis caused “considerable economic instability throughout the region.” Consequently, unemployment and poverty ensued and prompted criminality such as piracy to flourish.

In Southeast Asia, Elleman *et al* (2010: 104) show that what began as criminality at sea by individual fishermen developed into highly-organised professional piracy. The reasons for this development are twofold: it has been argued that the 1997 Asian Financial Crisis harshly impacted this region. As a consequence of the deteriorating economic situation, many fishermen were forced to engage in piracy to supplement their income.

Moreover, as previously outlined, the economic situation “caused widespread political instability” – which fuelled criminality (Elleman *et al*, 2010: 107). It suffices to cite an example of how Indonesian fishermen and sailors became pirates due to unemployment and poverty. In addition, the training required to work on commercial ships was expensive – which furthered the appeal of piracy as a means of income.

#### **4.1.2. Other Contributing Factors**

##### **4.1.2.1. Lack of Maritime Security and Institutional Weakness**

A lack of capabilities and/or resources for maritime security hampers effective measures to combat piracy. Difficulties in building effective maritime security institutions have provided the ideal environment in which piracy can flourish. Underfunded capabilities greatly restrict the effectiveness of a nation to address the piracy problem. This is particularly applicable to Southeast Asia, as these nations suffer from a lack of funding and resources for maritime security (Riggs, 2010: 10). In particular, it is widely known that maritime security in the region’s harbours is largely ineffective (Chalk, 2008: xii). Owing to the fact that a large proportion of Southeast Asian piracy occurs whilst vessels are in port, this lack of security essentially encourages these attacks (Chalk, 2008: xii).

Riggs (2009: 27) argues that the Asian Financial Crisis “had a profound impact on the lack of funding for security enforcement” in Southeast Asia. For example, Indonesia’s military budget and expenditure were reduced by 65% in 1998, which had a direct effect on military personnel’s salaries – which explains why piracy was often resorted to in order to supplement incomes (Riggs, 2009: 27).

Southeast Asia’s territorial sea boundaries often overlap and therefore make it extremely difficult for states to claim responsibility and effectively prosecute pirates. Consequently, this has

“facilitated their collective inability to act” (Riggs, 2009: 24). Disagreements between nations in the Strait of Malacca regarding sovereignty over territorial waters are also pertinent issues.

Most notable are the legal and jurisdictional weaknesses of the maritime court sectors in Southeast Asia – as there are many grey areas and legalities concerning the prosecution of pirates. However, this is not limited to the Southeast Asian case, as problems within international law are present, which greatly hinder accountability – thereby weakening the system to effectively prosecute pirates. Indeed, a robust judicial system increases risks for pirates to commit their crimes. The short-term reduction of piracy in the Strait of Malacca in 1992 occurred due to a collaborative patrolling effort by Singapore, Malaysia and Indonesia – proof that functioning security is one effective solution to combating piracy.

#### **4.1.2.2. Favourable Geography**

Southeast Asia, with its myriad of small islands provides the ideal environment in which pirates can hide and therefore escape prosecution. Its favourable archipelagic geography, as well as porous maritime borders, has caused the seas to be “the main medium for the illegal movement of people and goods” (Bateman, 2010: 138). Thus, pirates view these waters as “rewarding hunting ground[s]...[with] safe havens” (Murphy, 2007: 15). Moreover, the geography greatly disadvantages security forces which are active in Southeast Asia (Riggs, 2009: 9).

##### 4.1.2.2.1. Ungoverned Spaces

Here it is relevant to discuss the significance of ungoverned spaces – specifically in the maritime sense. It is important to note that ungoverned spaces have the ability to transcend into becoming safe havens for criminals and networks, particularly in inaccessible maritime areas, notably in Southeast Asia.

Menkhaus (2007: 2) describes ungoverned spaces as “a general condition of weak to non-existent state authority in a defined geographic area.” This can include complete and partial state collapse, as well as ineffective and weak state authority. One such feature of ungoverned spaces is the presence of “illicit transnational networks [which] target weak and failed states” (Menkhaus, 2007: 2). Failed and weak states are most vulnerable to becoming ungoverned spaces, as well as being more likely to house terrorist organisations (Menkhaus, 2007: 2).



In the Southeast Asian case specifically, its maritime region has become an ungoverned space due to “decades of poor governance [and] lack of state capacity” (Storey, 2007). Similar to the Strait of Malacca are the waters of the southern Philippines, where the Sulu Archipelago specifically has become an ungoverned maritime space (Storey, 2008). In addition, speculations are rife that terrorist groups, such as Jemaah Islamiya have taken to this region as a safe haven to conduct operations. In summary, ungoverned spaces – particularly maritime ones – are especially vulnerable to insecurity and criminality.

#### **4.1.2.3. Increase in Sea Traffic and the Promise of Rewards**

Increasing global sea traffic passing through Southeast Asian waters has naturally attracted pirates – especially to the Strait of Malacca. The constant source of valuable international cargo has “provided pirates with an almost limitless range” of targets (Chalk, 2008: xii). Owing to the amount of trade sailing through this narrow strait, pirates exploit this advantage and attack passing commercial ships – thus obtaining vast sums of money in their hijackings. Even petty theft off ships brings high monetary remuneration for pirates and thus, piracy is seen as a rewarding and appealing venture. Fuelling the problem is the requirement for ships to slow down when entering these crowded waters – essentially making these vessels sitting ducks for hijackings to occur. In addition, pirate ransoms are notoriously high, some amounting to over \$100 000. As a consequence, even smaller sums are still vastly appealing to poor people engaging in acts of piracy as a means of income (Riggs, 2009: 29). Hence, the rewards outweigh the risks of piracy.

#### **4.1.2.4. Permissive Political Atmosphere and Cultural Acceptance**

Owing to widespread corruption throughout Southeast Asia, a permissive political atmosphere is created – which pirates take advantage of (Riggs, 2009: 28). Indonesian military personnel have often been known to take part in acts of piracy in the Strait of Malacca (Riggs, 2009: 28). It is precisely in this manner that the pirate’s “supportive criminal infrastructure” is maintained (Murphy, 2007: 16). This weakened state of affairs inhibits governments from taking effective action against piracy. Hence, this permissive environment allows piracy to flourish.

As Murphy quoted in Riggs (2009: 28) explains, piracy has become a “tradition” and a “culturally acceptable...permanent feature of the environment.” Certainly, “piracy thrives where it is culturally acceptable” (Murphy, 2007: 16). This trend is more evident in Southeast Asia than in Africa, as

pirates have long been accepted into local society. Thus, this entrenchment not only supports but also perpetuates the piracy phenomenon.

#### **4.1.2.5. Global Proliferation of Weapons**

Southeast Asia is particularly attractive for piracy as sophisticated channels for information processing, transferring of funds and the availability of weapons are present in this region (Bateman, 2010: 138). Thus, Southeast Asia's organised crime is inevitably largely maritime in nature. The illegal trade of weapons has made pirate activities more dangerous in nature, as these are cheaply and easily available. In particular, vessels that transport weapons are favoured targets for pirates – as rewards are in the form of cash and arms.

### **4.2. IMPACTS AND EFFECTS**

Evidently, owing to the amount of vessels that pass through the Strait of Malacca and Southeast Asian waters, piracy becomes a global concern and security threat. Hence, the piracy situation poses immense challenges to international role-players in the global political economy (Neethling, 2010: 36). Therefore, this study argues that the effects and impacts of piracy are indeed extensive. As with the previous chapter concerning Somali piracy, this section will consult Tsvetkova's (2009: 50) outline of the six major impacts of contemporary piracy.

#### **4.2.1. Regional Instability**

Again, as highlighted in the preceding chapter, piracy is a pressing security concern. Indeed, the security situation is further complicated if terrorism is suspected to be involved in piracy. However, although no specific or direct links have been established in Southeast Asian piracy, rebel groups such as the Free Aceh Movement in Indonesia were known to collaborate with pirates in their active years (Riggs, 2009: 9). Piracy as a criminal activity serves to negatively impact on a state's economy, as well as its domestic and foreign security policies. In addition, legitimacy of authority in dealing with piracy is greatly undermined. Indeed, this type of criminal activity can serve to destabilise a region and thus, although piracy is a maritime phenomenon, its affects can be seen on land.

#### **4.2.2. Exacerbates the Cycle of Poverty and Underdevelopment**

Criminality largely stems from poverty and unemployment. Maritime piracy is no exception and, owing to the promise of rewards, individuals turn to piracy to make a living. Whilst not a completely lawless region, Southeast Asia is an attractive region to pursue piracy. One such reason is that its maritime security measures are largely underfunded and ineffective (Storey, 2007). Piracy as a criminal activity undermines social, political and economic development. In addition, piracy as a criminal phenomenon attached to a particular region or state can represent chaos, disorder and underdevelopment (Storey, 2008).

#### **4.2.3. Increase in Insurance Costs**

Aside from the increase in freight insurance costs, crews often demand increase danger pay if they know their ships will be sailing in piracy-prone waters. For this reason, shipping companies often choose to re-route their vessels to avoid certain areas – although in Southeast Asia the alternative options are rather limited. The Strait of Malacca is a particularly busy route for shipping goods from Japan and China to India, Africa and via the Suez Canal to Europe.

#### **4.2.4. Negative Effects on International Trade**

The economic impacts of Southeast Asian piracy are widespread and extensive. Primarily negatively impacting on global maritime trade, piracy causes “fraud, stolen cargo and delayed trips” (Chalk, 2008). These negative economic impacts “undermine a maritime state’s trading ability” – which has a direct impact on international sea trade (Chalk, 2008). In other words, the more a particular country’s sea trading routes experience incidents of piracy, the more it is seen as a costly trading route. As a result, shipping companies will be reluctant to make use of that particular route for trade – which in turn, directly impacts on littoral states’ economies. Furthermore, this could also lead to boycotts of ports – for example, when threats of boycotting Hong Kong surfaced, due to the danger of pirate attacks in that area in the mid-1990s (Chalk, 2008). Hence, the costs of piracy can be damaging for a maritime trading country. Equally affected are the consumer prices of goods shipped by sea – which increase as a result of increasing shipping insurance costs (Nincic, 2009: 6).

#### **4.2.5. Political and Security Impacts**

Regarding political impacts, one can argue that piracy indeed negatively affects any form of state legitimacy (Chalk, 2008). Amongst other political effects, piracy serves to threaten maritime trading routes, as well as being a destabilising force for the littoral state (Neethling, 2010: 35). Owing to the security issue that piracy poses, it serves as an obstacle for political and social development, as well as impacting on a state's foreign and security policies (Neethling, 2010: 35). This in turn, also negatively affects economic prosperity.

As with the previous chapter, this chapter outlines and explores the causes and motivations of piracy. Finding that poverty and unemployment directly cause piracy, these chapters also highlight the significance of land-based factors. Additionally, discussions of how piracy is both a regional and international security threat are included. Together with this, these chapters also investigate the various impacts and effects of piracy.

## Chapter 5

### Comparative Discussion of International Responses and Preventative Measures against Piracy

#### 5.1. INTERNATIONAL RESPONSES

##### 5.1.1. International Collaborative Efforts

It is imperative to note that there exists no “quick fix” to counter the piracy problem (Chalk, 2008). The aim of this section is to highlight the responses by the international community in combating piracy in Somalia and Southeast Asia, as well as bring forward some recommendations for possible preventative measures used by the international shipping industry.

Referring to the need for collective responsibility, Bradford (2008: 478) highlights the need for anti-piracy solutions to become a greater priority for the international community. This includes increasing capacity-building assistance, as well as expanding co-operative networks in fighting piracy. Resources and willingness also need to increase in the fight against piracy, in order to improve solutions. By increasing co-operative agreements, the capacity of actors can be increased in order to effectively address piracy.

##### 5.1.2. Coalitions and Agreements

###### 5.1.2.1. Somalia

Chalk *et al* (2009) explain that international responses to piracy in the Horn of Africa have shown an “unprecedented degree of inter-state collaboration.” However, whilst these efforts are not insignificant, an even greater amount of collaboration is necessary between the international and regional community – specifically the African Union – in order to effectively combat piracy. For example, these actors should work together to “strengthen Somali governance” and “intensify collaborative networks” (Tsvetkova, 2009: 59; Onuoha, 2009: 43).

One of the most prominent coalitions in response to piracy is the multi-national coalition naval Combined Task Force of 2008, which was implemented with the goal of “detering piracy in the Gulf of Aden” (Kisiangani, 2010: 366). Specifically, it established a Maritime Security Patrol Area to “act as a protected sea lane” that would provide protection to passing ships (Kisiangani, 2010: 366).

International support also originated from the European Union's naval task force, the EU NAVFOR Somalia, which was established in 2009 to "support the enforcement of UN Security Council (UNSC) resolutions" (Kisiangani, 2010: 366). Significantly, the UNSC Resolutions 1851 and 1816 allowed for external interventions in Somalia for the purpose of combating piracy. Interestingly, the EU NAVFOR receives support in the form of anti-piracy supplies from Russia, China, Malaysia and India, amongst others (Kisiangani, 2010: 366).

Other anti-piracy responses in the Gulf of Aden are outlined by Van Rooyen (2011: 9) and include a number of regional, uni- and multi-state operations. It has been estimated that approximately 30 warships of various nationalities are stationed in these waters – including those of NATO and the EU. Elleman *et al* (2010: 105) make reference to the 1982 Anti-Piracy Arrangement, which included Commonwealth countries, as well as France, Germany, Norway and Japan, amongst others. It involved naval vessels designed to patrol various waters. However, the results were few and reductions in pirate attacks were minimal.

The United States has a number of initiatives to address piracy, such as the Proliferation Security Initiative, as well as the Customs-Trade Partnership Against Terrorism. Most notable was the establishment of the 2009 Combined Task Force 151, as well as the 2008 US Maritime Security Patrol Area (MPSA) - both with the purpose of monitoring and patrolling the Gulf of Aden (Kisiangani, 2010: 366). The United States Africa Command (AFRICOM) has a range of treaties, alliances and mechanisms to address piracy in East Africa.

Africa's contribution to anti-piracy initiatives is substantially less active. Van Rooyen (2011: 21) argues that the AU "barely recognises the importance of maritime affairs" and instead tends to focus its affairs on land. Not surprisingly then, that the majority of AU resources is concentrated in other areas deemed to be of greater concern. Nevertheless, the AU has had a number of institutionalising mechanisms and conferences, among which are the Sea Power for Africa Symposia (SPAS), which began in 2010. However, the AU lacks in its legal and scientific expertise capacity, as well as in its implementation capacity (Van Rooyen, 2011: 20). Furthermore, with the exception of those of South Africa, Kenya and Egypt, African navies are inadequately equipped for maritime issues (Van Rooyen, 2011: 20). Owing to the fact that most African governments lack both the political will and funding for extensive maritime security operations; effectively addressing piracy by African states remains low on the agenda.

### **5.1.2.2. Southeast Asia**

Responses to piracy in Southeast Asia are of a more regional nature than those in the Somali case, as collaborative measures tend to consist of combined approaches and agreements from surrounding countries. However, this does not mean that these approaches are any less in scale or importance than international efforts elsewhere. For example, the IMB's Piracy Reporting Centre is situated in Kuala Lumpur and, consequently, receives substantial attention for its prominent maritime patrols and information sharing network. Its origins were between the navies of Singapore, Malaysia and Indonesia, which established an agreement in 1992 for patrols in the Strait of Malacca, within each country's respective territorial waters (Beckman, 2002: 330).

Bradford (2008: 482) argues that the "most visibly operationalised co-operative endeavours" have been between Singapore, Indonesia and Malaysia in addressing piracy in the Strait of Malacca. These multi-national patrols in Southeast Asia are widespread and have been known to effectively reduce the number of attacks (Riggs, 2009: 80).

As Riggs (2009: 29) notes, many Southeast Asian nations have engaged in numerous bi- and multi-lateral agreements to "collectively reduce piracy." The Association of Southeast Asian Nations' (ASEAN) 1997 Declaration on Transnational Crime is one such example of the recognition of the dangers and impacts of piracy. Amongst other agreements is the 1992 Maritime Operation Planning Team (MOP) between Indonesia and Malaysia, which was formed to "conduct co-ordinated patrols" (Chalk, 1998: 99).

However, it must be noted that although the IMB Piracy Reporting Centre features prominently in the fight against piracy, many Southeast Asian states lack effective naval capacity. Yet, even though regional agreements such as these do not have any direct impact on addressing the root causes of piracy, they "likely contribute to increased communication between regional nations" (Riggs, 2009: 80).

### **5.1.3. The Role of International Organisations**

Kisiangani (2010: 370) argues that most international actors tend to pursue "short-term counter-terrorism goals [and] narrow coalitions" in Somalia – which are not feasible for long-term stability. Although these international coalitions are well-intended, solutions require a long-term focus.



Kisiangani (2010: 370) is also of the opinion that if this “external meddling” by the international community continues, it could “prolong and worsen the conflict.” It has therefore often been argued that the most effective international participation would involve contacting Somalia’s leaders, in order to “stabilise the security situation” and rebuild the nation with a domestic, land-based approach (Kisiangani, 2010: 371).

As previously mentioned, international collaborative responses are necessary to effectively address piracy in Somalia and Southeast Asia. Whilst current efforts are engaging international actors in working together to fight the scourge of piracy in these waters, there remains a need for anti-piracy solutions that directly address its root causes on land. International and regional responses alike should aim to incorporate both an at sea and an on-land focus. It is therefore that domestic solutions should aim to work alongside the efforts of the international community in order that capacity and efficacy is enhanced.

## **5.2. PREVENTATIVE MEASURES AND RECOMMENDATIONS**

Whilst by no means a solution to ending the scourge of maritime piracy, preventative measures are known to contribute to decreasing the likelihood of attacks taking place. If vessels must enter piracy-prone waters, the following are means to decrease that likelihood. Some anti-piracy measures include the usage of high-pressure hoses on ships, using satellite tracking systems for ships, as well as putting up electric fencing to deter undesirables from boarding (Chalk, 2008). Using devices on containers which sound an alarm if the contents are tampered with can also be a means of preventing a pirate attack (Chalk, 2008). Allowing the crew of ships to defend themselves with firearms is a contentious issue, as many feel it would simply escalate the human cost of piracy (Murphy, 2007: 20). Similar is the argument for employing private security personnel to safeguard vessels.

### **5.2.1. Discouraging Pirates on Land**

Rotberg (2010: 4) outlines three ways of addressing piracy – improving the legal response, making ships more difficult to be hijacked and discouraging pirates on land.

Owing to the fact that piracy is “but an income-generating industry,” it is necessary to provide attractive incentives to lure them away from piracy (Rotberg, 2010: 4). However, this is easier done

in theory than in practice and is extremely difficult to achieve, especially if conflict persists on land. In order for such incentives to become viable solutions, it is necessary to have “more rewarding alternatives” on land, as well as “sufficiently strong” governance (Rotberg, 2010: 4). Incentives to lure pirates away from their crimes are to create “gainful employment opportunities” to attract pirates to honest work (Rotberg, 2010: 5).

It is well-known that piracy operates in partnership with facilitators on land. Conversely, there are Somali leaders who oppose piracy – their status in their respective communities should be used to encourage pirates to return to being fishermen. Therefore, if the international and domestic Somali community can work together to create an “infrastructural construction program” that is “sufficiently robust [and] visible” for employment creation – it will ensure the turnaround for Somali piracy (Rotberg, 2010: 6). Local capacities would be included in these operations and would contribute to Somalia’s overall economic transformation. Although it would be land-based in nature, it would directly impact at sea. When economic opportunities are present on land, piracy would become too costly an endeavour and would ultimately “wither” (Rotberg, 2010: 6).

However, it is important to note that the international community should assist in Somalia’s institutional building, especially since the impact of piracy is directly affecting the international maritime community.

Rotberg (2010: 5) also suggests that international naval patrols should be allowed to prevent illegal foreign fishing and dumping of toxic waste in Somali waters. This, as Rotberg (2010: 4) maintains, would effectively “increase[...]counter-piracy initiatives.” In addition, the international community should aid in re-establishing the fishing industry in Somalia, in order to create jobs and stimulate the economy. Consequently, pirates would be able to return to their fishing jobs and forsake piracy. As Weir (2010: 215) argues, in order to address the root of the Somali piracy problem, one needs to use a long-term solution that directly addresses the illegal fishing problem. Again, this is extremely difficult to achieve, especially in light of the present dire situation in the country.

### **5.2.2. Deterring Hijackers**

In order to deter pirate attacks from taking place, shipping companies should take adequate steps to ensure their vessels are less likely to be hijacked by pirates. For example, radar surveillance technology, lookouts and early-warning alert systems should all be used in order to prevent an attack from happening (Rotberg, 2010: 10). Perhaps most obvious – but rather difficult – is that

ships should avoid piracy-prone waters. However, as is the case in the Gulf of Aden and the Strait of Malacca, most piracy-prone waters are generally in important international trade routes and therefore difficult to avoid.

If these areas cannot be avoided, ships should try – where possible – to sail at a faster speed of more than 15 knots. This is due to the fact that slow sailing makes ships attractive and vulnerable targets for pirates. In combination with speed, evasive manoeuvres should be used when a ship is in danger of being attacked.

### **5.2.3. Improving the Legal Response**

Rotberg (2010: 11) suggests improving the legal response to piracy by creating an “extra-territorial court” with the sole purpose of handling pirate cases. This could be authorised by either the UN and would convict pirates in any country, thereby improving the current international legal framework concerned with maritime piracy.

It must be noted that very few Exclusive Economic Zone (EEZ) boundaries exist in Southeast Asian waters. This fuels the piracy problem as “the lack of maritime boundaries complicates enforcement against crimes at sea” (Bateman, 2010: 144). Thus, responses should focus on integrating the framework for establishing Exclusive Economic Zones in the region.

### **5.2.4. A Viable Land Approach**

It is of dire importance to point out that the international community is “reluctant to involve themselves in [Somali] nation-building efforts” – owing to the past failures of humanitarian intervention in Somalia, such as in 1993 (Riggs, 2009: 87). Therefore, responses from the international community have thus been limited to “a sea-based approach” (Riggs, 2009: 87).

As Onuoha (2009: 43) states, much of Africa’s conflict is rooted in the failure of governance. Somalia is no different and it is therefore imperative that Somalia requires effective governance structures. As Stevenson (2009) explains, piracy in Somalia is “a symptom of the wider instability” in the Horn of Africa. Therefore, as discussed in length throughout previous chapters, causes of Somali piracy directly originate from the lawlessness on land and its failed governance (Riggs, 2009: 87). Hence, Somali piracy “requires a domestic solution” (Riggs, 2009: 87).

Riggs (2009: 87) aptly argues that “efforts that address the causes of piracy on land...have the best chance of combating piracy.” Not insignificant are multi-lateral efforts by the international

community to employ air and sea patrols to “provide increased maritime security” in order to deter pirates (Riggs, 2009: 87). However, international efforts should be aimed at improving governance in Somalia, as the majority of international responses have “focused on the symptoms of piracy, while failing to address the underlying causes” (Riggs, 2009: 84). Therefore, it must again be stressed that multi-national naval patrols must be continued, together with addressing the land-based aspects of Somali piracy.

Similar to the Somali case, Bateman (2010: 137) cites “general economic problems,” as well as declining fish stocks as fuelling Southeast Asian piracy – and consequently becoming root causes for villagers to turn to piracy. It is for this reason that Bateman (2010: 137) suggests approaches that move away from concentrating on sea patrols and instead focus on “on-shore policing.”

### **5.3. COMPARATIVE ANALYSIS**

#### **5.3.1. Background and Nature**

Bateman (2009: 2) argues that Somali piracy is “distinctly different” to piracy in the Strait of Malacca for a number of reasons.

Firstly, Somalia is a lawless land from which pirates operate off – which is not the case in Southeast Asia (Bateman, 2009: 2). Owing to this lawlessness, Somali pirates are able to “get away with their actions” (Bateman, 2009: 2). Whilst Southeast Asia experiences various socio-economic problems, its situation ashore is by no means as desperate as that of Somalia. Additionally, Somalia has more entrenched systems which support piracy on land – for example, the “assistance of [...] whole villages” (Bateman, 2009: 2). This type of community support – whilst present - is not as pronounced in Southeast Asia. However, both regions are similar in that an array of networks exist that essentially enables pirates to execute their activities. Southeast Asian piracy also differs in that it manifests in more of a transnational manner – with various networks of illegals arms, smuggling and drug activities (Bateman, 2010: 137).

Secondly, Southeast Asian piracy’s area of operation differs from Somali piracy regarding geography – as Somalia sees a vast stretch of ocean, whereas Southeast Asian waters are characterised by “narrow shipping lanes and small islands” (Bateman, 2009: 2).

Thirdly, Somali pirates tend to use mother ships as a base from which to operate from, whereas Southeast Asian pirates can engage in “hit-and-run” incidents, preferring to launch motorboats from surrounding islands (Bateman, 2009: 2).

Fourth, Somali piracy is usually of a bolder nature than Southeast Asian piracy – for example, Somali pirates usually attack during the day and tend to have overt display[s] of weaponry” for the purpose of intimidation (Bateman, 2009: 2). In contrast, Southeast Asian pirates are more cautious – with a preference for attacks in the dark. In addition, Southeast Asian pirates usually attack ships at anchor or in port, whereas Somali pirates are notorious for operating extensively offshore.

Lastly, as Bateman (2009: 2) argues, Southeast Asian pirates tend to be “less organised, petty criminals conducting opportunistic raids.” Moreover, Southeast Asian weapons of choice are generally knives and machetes, which are starkly contrasted to Somali automatic weapons and rocket-propelled grenades (RPGs). These machetes can be obtained cheaply and without difficulty, making it “a tiny expenditure with huge rewards” (Kemp, 2009: 201).

Farley (2009: 1) maintains that the recent upsurge in piracy in Somalia “bears a striking resemblance” to Southeast Asian piracy in the early 1990s. Interesting to note is that Farley (2009: 1) also argues that Southeast Asia at this time – much like present-day Somalia – experienced “regional economic depression and weak local government enforcement capabilities.”

As discussed previously, piracy trends in Africa also differ in nature from those in Asia, as “mariners are more likely to be kidnapped for ransom and more likely to be victims of violence in African waters than in Asian waters” (Nincic, 2009: 6).

### **5.3.2. Piracy and Terrorism**

The few arguments in support of direct links between piracy and terrorism in this study have shown to be rather speculative and insubstantial in nature. It is therefore that this study remains sceptical of the alleged links to terrorism. As the thorough investigation of this link requires a more extensive analysis in a separate discussion, the aims and objectives of this study were instead focused on investigating the origins and motivations for piracy. Thus, terrorism was briefly discussed in previous sections. Although Somali and Southeast Asian piracy has repeatedly been identified as “potentials” where maritime terrorism could flourish, it must be noted that these arguments point to the possibility of this occurring, not the current situation (Tsvetkova, 2009: 52).

### **5.3.3. Causes and Motivations**

Evidently, what arises in this study is that Somali and Southeast Asian piracy are similar in that poverty and unemployment are both major factors which cause piracy to manifest itself. However, as Huang (2009: 283) states, it would be faulty to refer to pirates as “a homogenous group,” as pirates essentially differ across regions. The bulk of previous literature has focused on discussing the significance of various factors on land which have had a spill-over effect onto maritime instability – most notably in Somalia. This study argues in favour of the importance of these specific land-based factors in directly contributing to the problem of Somali piracy.

State failure and political instability are the chief underlying indicators, as well as problems associated with foreign fishing exploitation in Somalia. Economic and social factors – such as the impact of the 1997 Asian Financial Crisis - are also brought forward and are particularly relevant to the Southeast Asian case study. In addition, other significant contributing factors include - but are not limited to - the absence of maritime security, weak jurisdictional institutions, a permissive political atmosphere, and favourable geography. The issue of ungoverned spaces is especially relevant in the Southeast Asian case study, and also brings into question the importance of Exclusive Economic Zones (EEZ).

When discussing causes and motivations of piracy in general, one sees various factors which emerge in the literature and which are applicable to both case studies of Somalia and Southeast Asia. In general, the chief factors which have caused piracy are state failure and instability, as well as socio-economic factors – wherein poverty and unemployment in the fishing industry forms a part of. Other important factors discussed as minor contributing factors are inter-related. These are not to be considered factors causing piracy in itself, but rather treated as contributing factors which serve to create a more conducive environment for piracy to operate in. However, it is imperative to note that our two chief factors are state failure, instability and socio-economic factors. Furthermore, one must constantly acknowledge the fact that there is not simply one factor causing maritime piracy – it is indeed a combination of many inter-related aspects.

#### **5.3.4. Impacts and Effects**

The impacts of contemporary piracy in both case studies frequently overlap and display many similarities. This study particularly highlights the impact on regional instability – as piracy manifests as a security concern with international consequences.

As is evident in both case studies, piracy serves to be a domestic, as well as international security concern. Although its origins are on land, these regional instabilities expand to the international security agenda. In addition, by negatively impacting on a state's domestic and foreign policies, piracy hinders regional stability. The Somali case is slightly different to the Southeast Asian one in that it is already extremely unstable and therefore, piracy as a security concern essentially intensifies and contributes to the desperate situation. Most notably, piracy poses an enormous threat to international security – even more so if it is connected to terrorist networks.

Stemming from poverty, the nature of piracy is - by definition, lawless. Hence, this criminality undermines any form of state authority and legitimate governance. Consequently, economic development is unable to occur. Thus, piracy as a destabilising factor perpetuates poverty and underdevelopment.

Among other negative impacts are the increases in freight insurance costs, particularly in Somalia – which are a direct result of the frequency of pirate attacks in Somali waters. Shipping companies, international stakeholders and states alike feel the financial costs of piracy.

International trade is negatively affected by piracy. Although piracy could be viewed as a regional phenomenon, this study argues that its effects directly crossover to the international sphere. Furthermore, the entrenched criminal networks connected to piracy add to the illicit nature which destabilises economic activity in the region. Consequently, it undermines maritime states' trading ability in the region.

Piracy severely undermines legitimate government and therefore has far-reaching political impacts. Not only endangering sea trade, piracy destabilises the region and is a destructive force for political development. Littoral states in particular are destabilised by piracy incidents and therefore experience negative effects on their economic prosperity.



Individual losses in the form of losses in investments are also a direct cause of piracy. Indeed, various economic sectors associated with maritime trade are negatively affected, as well as the possibility of negative impacts for the environment.

Specifically relevant to the Somali case is that humanitarian assistance suffers as a result of Somali piracy. This is mainly due to the fact that a large number of humanitarian aid is transported via ships. This in turn negatively affects ordinary Somali citizens, whose desperate situation worsens. Thus, the malicious hindrance of humanitarian aid by pirates constitutes a direct threat to international security. It is therefore that piracy in Somalia is “symptomatic of a much larger crisis in the region” (Kisiangani, 2010: 372).

### **5.3.5. The Role of International Organisations, Responses and Solutions**

In short, whilst substantial efforts and approaches have attempted to deal with piracy at sea, little has been done on land to address the underlying causes of piracy. Overlooking Somalia’s internal problems and concentrating on a military solution to piracy will not eliminate the problem, but rather serve to exacerbate tensions in the region. There is need for responses towards Somalia that are not solely underpinned by commercial and counterterrorism concerns. The priority should be to facilitate a government that is acceptable to Somalis, regardless of the affiliations of its individuals. International action should seek to engage a ‘Somali solution’ which should not exclude reaching out to the Islamist groups in an effort to stabilise the country. The alternative, chaos, is far worse. Meanwhile, efforts to prosecute Somali pirates should also include the issue of illegal fishing and toxic dumping (Kisiangani, 2010: 372).

Regarding the Southeast Asian case study, whilst similar in its socio-economic origins, the situation on land is not as desperate as that of Somalia. Therefore, responses to Southeast Asian piracy require a different approach when addressing root causes. For example, as Bateman (2010: 144) argues, Southeast Asian countries “should be pursuing programs to drive down poverty...and to remove the root causes of piracy.”

Preventative measures discussed throughout this study could apply to both regions, as the likelihood of decreasing attacks by using such measures is greater. In order to discourage pirates from engaging in piracy, it is necessary to address the land-based problems that are the origins and motives of piracy. Thus, although difficult to achieve – especially in Somalia – incentives and

structures need to be created to lure individuals away from piracy. These incentives need to be more rewarding and involve the working of legitimate governance. In addition, extensive pirate networks need to be targeted. By fragmenting these transnational links, pirates will be stripped of funding and resources and will ultimately be abandoned. Here it is also necessary to stress the importance of local capacity-building.

Various measures to deter hijackers have also been suggested, which range from on-board high-pressure hoses, to early-warning alert systems and vigilant naval patrols. Improving the legal response to piracy should also feature strongly in viable solutions to combating piracy.

Perhaps a most important approach to addressing piracy is that the international community should be encouraged to work in conjunction with domestic solutions.

Whereas a large number of international responses have focused on a sea-based approach, a land-based approach is required in order to effectively combat piracy. As Somalia's piracy is largely rooted in the failure of governance, it is imperative that it requires legitimate governance. Although Southeast Asia's piracy problem has its origins in more socio-economic problems it nevertheless also requires effective solutions that target the problems on land – not merely international naval patrols at sea.

By focusing our attention on the significance of international responses to piracy, this chapter explains the various collaborative operations in Somalia and Southeast Asia. Furthermore, by bringing forward various preventative measures and recommendations, the need for increased international and domestic collaboration is evident.

## Chapter 6

### Conclusion

#### 6.1. INTRODUCTION

The overview in the introductory chapter of this work outlined the purpose of this thesis to investigate the following: to compare, explain and determine characterising trends of contemporary piracy in Somalia and Southeast Asia; to conceptualise an applicable definition of piracy; to determine the motives and underlying causes that fuel piracy in these regions; to offer effective region-specific ways of combating piracy; to assess the impacts and effects of piracy; to highlight the role of the international community; to compare and contrast piracy trends between the two regions.

In answering these questions the central focus of this work was to explore the *how* and *why* of contemporary piracy trends in Somalia and Southeast Asia. The purpose of this chapter is thus to conclude on these questions; to review the most important findings of this thesis and, to proclaim if the study has succeeded in its initial objectives.

#### 6.2. FINDINGS OF THE STUDY

##### 6.2.1. Conceptualising Contemporary Piracy

This study sought to effectively understand what constitutes maritime piracy by bringing forward a number of definitions in Chapter 2. This study saw that a number of contentious viewpoints emerged concerning the various definitions. For example, debates surrounding the question of whether criminal acts in river deltas or ports could be considered as piracy were discussed. By critically discussing and analysing these definitions from various angles one is able to conceptualise an original definition of piracy, largely based on the UNCLOS – which is defined as being violence at sea, involving hijacking of crew and/or passengers for a malicious motive.

This chapter also sought to highlight significant pirate attacks in Somalia and Southeast Asia. The reasons for declines and increases in pirate attacks in both regions was discussed and evaluated. Generally, increases were attributed to the lack of legitimate governance, state failure, instability as well as a host of other socio-economic reasons. Declines in pirate attacks were generally due to an increased co-ordinated naval presence in pirate-prone waters, as well as vessels using preventative

measures on ships to counter the likelihood of attacks. The surge in Somali piracy was also likened to Southeast Asian piracy of the early 1990s, due to various regional political and economic similarities between the two.

To accompany these figures, the specific nature of piracy in Somalia and Southeast Asia was examined and focused on exploring the manner in which pirates operate, who pirates are, where pirates prefer to attack, as well as why they engage in this behaviour.

This study established that the nature of Somali and Southeast Asian piracy display various similarities, as well as differences. Somali piracy is different due to the fact that pirates operate off a lawless land, which is not the case in Southeast Asia. In contrast, although Southeast Asia experiences various socio-economic problems, its situation ashore is by no means as desperate as in Somalia.

The geographical nature of Somali and Southeast Asian piracy also differs. For example, Southeast Asian waters are complicated arrangements of small islands and narrow shipping lanes. This is decidedly different in Somalia, as pirates operate in the vast ocean off the eastern coast of Africa.

The alleged link between piracy and terrorism was briefly investigated and arguments revealed that this link remains speculative. It was also established that although no direct to terrorism exists in contemporary piracy, it does have the possibility of becoming a means for international terrorism to manifest itself.

### **6.2.2. Underlying Motivations and Effects**

To avoid piracy merely being regarded as a simple criminal occurrence, both Chapter 3 and 4 explored the causes and motivations of contemporary piracy for the purposes of obtaining an enhanced understanding of the situation. This study found that poverty and unemployment are direct causes of Somali and Southeast Asian piracy. Moreover, the importance of several land-based factors was highlighted in this section, in order to show their significance as motivations.

Whilst state failure and political instability were discussed as chief underlying causes for piracy, problems such as foreign fishing exploitation, as well as socio-economic factors, remain significant. This study sought to highlight the importance of acknowledging the fact that no single factor exists that causes piracy to manifest. Instead, it is a combination of various inter-related factors.

This study explored how contemporary piracy has become not only a regional, but an international security threat. As a consequence, attempts to fight piracy are met with a number of challenges – which were examined in subsequent sections of the discussion. Essentially, the work of this study found that the impacts and effects of piracy are extensive. Moreover, as a tool to outline the six major impacts of piracy; the work of Tsvetkova (2009) was extensively consulted. Amongst others, major impacts showed negative effects on regional stability, as well as perpetuating the cycle of poverty.

The widespread effects of piracy pose immense challenges to international actors. The findings of this work showed that the impacts of Somali and Southeast Asian piracy frequently overlap and display a number of similarities. One such parallel is that the security impacts are both domestic and international in nature. In other words, although the origins of Somali and Southeast Asian piracy are on land, the consequent regional instabilities affect international security.

### **6.2.3. The Significance of International Collaboration and Prevention**

A comparative discussion of international responses and preventative measures was the focus in Chapter 5. Here, attention was placed on the fact that no straightforward solution exists to fight piracy. Collective responsibility and preventative measures were extensively discussed and could apply to both Somalia and Southeast Asia. Primarily, the need for international and domestic collaboration was brought forward. It was found that whilst preventative measures cannot end the scourge of piracy, they can contribute to decreasing the likelihood of attacks occurring.

In essence, collaborative responses need to include regional and domestic features if they hope to be successful to fighting piracy. Specifically, a land-based approach is needed in order for these responses to be successful. Indeed, overlooking the internal problems on-land – especially in Somalia – will only serve to worsen the piracy situation. Although difficult to achieve, incentives to lure pirates away from criminality are essential measures to targeting piracy.

## **6.3. RECOMMENDATIONS FOR FUTURE RESEARCH**

Whilst by no means a comprehensive study concerning all aspects related to maritime piracy, this work has sought to make a contribution to the field of Security and Conflict Studies – specifically in

the regions of Africa and Asia. It is hoped that the findings of this study have given insight into the causes and motivations of contemporary maritime piracy in a comparative manner. This study is therefore significant in that it illustrates the various similarities and differences between Somali and Southeast Asian piracy from a descriptive perspective.

Recommendations for future research are encouraged in order to build on this specific field. For example, more extensive research could be pursued concerning the links between piracy and terrorism. Together with this, questions regarding the perceived nature of future piracy could also be addressed – specifically by investigating how piracy will manifest in the near future. Theoretical schools of thought could also be incorporated as frameworks with which to view modern-day piracy.

#### **6.4. CONCLUDING REMARKS**

To summarise, one concludes by saying that this study proved to be successful in its ability to compare, explain and investigate the characterising trends of contemporary piracy in Somalia and Southeast Asia. Moreover, amongst others, the findings of this work successfully explored the underlying causes and impacts of piracy. Therefore, one can argue that this study was indeed successful in its initial objectives.

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